

FILED

JUL 15 2004

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

No. 04-99003

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

TERRY JESS DENNIS, )  
)  
Petitioner-Appellant, )  
)  
vs. )  
)  
MICHAEL BUDGE, et al. )  
)  
Respondents-Appellees. )  
)  
)  
)  
\_\_\_\_\_ )

D.C. No. CV-S-04-0798-PMP

RESPONDENTS' EXCERPTS OF RECORD

VOL I OF II

BRIAN SANDOVAL  
Attorney General  
ROBERT E. WIELAND  
Senior Deputy Attorney General  
5420 Kietzke Lane, Suite 202  
Reno, Nevada 89511  
(775) 688-1818  
Attorney for Respondent-Appellee

No. 04-99003

UNITED STATES COURT OF APPEALS

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TERRY JESS DENNIS,

Petitioner-Appellant,

vs.

MICHAEL BUDGE, et al.

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Attorney for Respondent-Appellee

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Criminal Justice Division  
5420 Kietzke Lane, Suite 202  
Reno, Nevada 89511  
Telephone: (775) 688-1818

Attorney for Respondents.

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<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
<div style="border: 1px solid black; height: 40px; width: 100%;"></div>	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

TERRY JESS DENNIS,  
Petitioner,

vs.

MICHAEL BUDGE, et al.,  
Respondents.

CV-S-04-0798-PMP

**INDEX OF EXHIBITS IN SUPPORT  
OF MOTION TO DISMISS**

**Vol. I of II**

- EXHIBIT 1: Proceedings, *State of Nevada v. Terry Jess Dennis*, Case No. RJC 97,670, In the Justice Court of the Reno Township, State of Nevada, filed March 26, 1999.
- EXHIBIT 2: Waiver of Preliminary Examination, *State of Nevada v. Terry Jess Dennis*, Case No. RJC 97,670, In the Justice Court of the Reno Township, State of Nevada, filed March 29, 1999.
- EXHIBIT 3: Court Minutes, *State of Nevada v. Terry Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, dated April 16, 1999 – December 4, 2003.
- EXHIBIT 4: Stipulation Regarding Arraignment, *State of Nevada v. Terry Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed March 29, 1999.
- EXHIBIT 5: Request, Agreement and Order for Pre-Trial Reciprocal Discovery, *State of Nevada v. Terry Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed April 2, 1999.
- EXHIBIT 6: Order Regarding Arraignment, *State of Nevada v. Terry Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed April 2, 1999.
- EXHIBIT 7: Warrant of Execution, *State of Nevada v. Terry Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed July 20, 1999.

- 1 EXHIBIT 8: Order of Committal, *State of Nevada v. Terry Jess Dennis*, Case No.  
2 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
3 July 20, 1999.
- 4 EXHIBIT 9: Order of Execution, *State of Nevada v. Terry Jess Dennis*, Case No.  
5 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
6 July 20, 1999.
- 7 EXHIBIT 10: Order Staying Execution Pending Direct Appeal, *State of Nevada v. Terry*  
8 *Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court,  
9 State of Nevada, filed July 21, 1999.
- 10 EXHIBIT 11: Notice of Appeal, *State of Nevada v. Terry Jess Dennis*, Case No. CR99-  
11 0611, In the Second Judicial District Court, State of Nevada, filed August  
12 3, 1999.
- 13 EXHIBIT 12: Case Appeal Statement, *State of Nevada v. Terry Jess Dennis*, Case No.  
14 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
15 August 3, 1999.
- 16 EXHIBIT 13: Affidavit of Compliance with SCR 250 (3) (b), *State of Nevada v. Terry*  
17 *Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court,  
18 State of Nevada, filed August 3, 1999.
- 19 EXHIBIT 14: Transmittal Certificate, *State of Nevada v. Terry Jess Dennis*, Case No.  
20 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
21 August 4, 1999.
- 22 EXHIBIT 15: Docketing Statement Criminal Appeals, *Terry Jess Dennis v. State of*  
23 *Nevada*, Case No. 34632, In the Supreme Court of the State of Nevada,  
24 filed August 13, 1999.
- 25 EXHIBIT 16: Order Setting Briefing Schedule, *Terry Jess Dennis v. State of Nevada*,  
26 Case No. 34632, In the Supreme Court of the State of Nevada, filed  
27 August 24, 1999.
- 28 EXHIBIT 17: Motion for Extension of Time to File Opening Brief, *Terry Jess Dennis v.*  
*State of Nevada*, Case No. 34632, In the Supreme Court of the State of  
Nevada, filed October 18, 1999.
- EXHIBIT 18: Order Granting Motion, *Terry Jess Dennis v. State of Nevada*, Case No.  
34632, In the Supreme Court of the State of Nevada, filed October 26,  
1999.
- EXHIBIT 19: Order Scheduling Oral Argument, *Terry Jess Dennis v. State of Nevada*,  
Case No. 34632, In the Supreme Court of the State of Nevada, filed  
February 10, 2000.
- EXHIBIT 20: Appellant's Opening Brief, *Terry Jess Dennis v. State of Nevada*, Case  
No. 34632, In the Supreme Court of the State of Nevada, filed October 26,  
1999.
- EXHIBIT 21: Respondent's Answering Brief, *Terry Jess Dennis v. State of Nevada*,  
Case No. 34632, In the Supreme Court of the State of Nevada, filed  
December 17, 1999.

- 1 EXHIBIT 22: Appellant's Reply Brief, *Terry Jess Dennis v. State of Nevada*, Case No. 34632, In the Supreme Court of the State of Nevada, filed January 24, 2000.
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- 3 EXHIBIT 23: Petition for Rehearing, *Terry Jess Dennis v. State of Nevada*, Case No. 34632, In the Supreme Court of the State of Nevada, filed December 26, 2000.
- 4
- 5 EXHIBIT 24: Transmittal Certificate, *State of Nevada v. Terry Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed January 27, 2000.
- 6
- 7 EXHIBIT 25: Order Denying Rehearing, *Terry Jess Dennis v. State of Nevada*, Case No. 34632, In the Supreme Court of the State of Nevada, filed January 23, 2001.
- 8
- 9 EXHIBIT 26: Clerk's Certificate, *Terry Jess Dennis v. State of Nevada*, Case No. 34632, In the Supreme Court of the State of Nevada, filed February 9, 2001.
- 10
- 11 EXHIBIT 27: Order Denying Rehearing, *Terry Jess Dennis v. State of Nevada*, Case No. 34632, In the Supreme Court of the State of Nevada, filed February 9, 2001.
- 12
- 13 EXHIBIT 28: Remittitur, *Terry Jess Dennis v. State of Nevada*, Case No. 34632, In the Supreme Court of the State of Nevada, filed February 20, 2001.
- 14
- 15 EXHIBIT 29: Application for Setting, *State of Nevada v. Terry Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed March 2, 2001.
- 16
- 17 EXHIBIT 30: Application for Leave to Proceed in Forma Pauperis and Request Appointment of Counsel, *Terry Dennis v. Don Helling, et al.*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed April 9, 2001.
- 18
- 19 EXHIBIT 31: Execution to be Scheduled on April 11, 2001, *Terry Dennis v. Don Helling, et al.*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed April 9, 2001.
- 20
- 21 EXHIBIT 32: Proper Person Request for Appointment of Post-Conviction Counsel, *Terry Dennis v. Don Helling, et al.*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed April 9, 2001.
- 22
- 23 EXHIBIT 33: Warrant of Execution, *State of Nevada v. Terry Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed April 12, 2001.
- 24
- 25 EXHIBIT 34: Order, *Terry Dennis v. Don Helling, et al.*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed April 12, 2001.
- 26
- 27 EXHIBIT 35: Order, *Terry Dennis v. Don Helling, et al.*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed April 12, 2001.
- 28

- 1 EXHIBIT 36: Order to Produce Prisoner, *State of Nevada v. Terry Jess Dennis*, Case  
2 No. CR99-0611, In the Second Judicial District Court, State of Nevada,  
3 filed March 13, 2001.
- 4 EXHIBIT 37: Application for Order to Produce Prisoner, *State of Nevada v. Terry Jess*  
5 *Dennis*, Case No. CR99-0611, In the Second Judicial District Court, State  
6 of Nevada, filed March 6, 2001.
- 7 EXHIBIT 38: Order, *Terry Dennis v. Don Helling, et al.*, Case No. CR99-0611, In the  
8 Second Judicial District Court, State of Nevada, filed April 12, 2001.
- 9 EXHIBIT 39: Order, *Terry Dennis v. Don Helling, et al.*, Case No. CR99-0611, In the  
10 Second Judicial District Court, State of Nevada, filed April 25, 2001.
- 11 EXHIBIT 40: Transcript of Proceeding, *State of Nevada v. Terry Jess Dennis*, Case No.  
12 CR99-0611, In the Second Judicial District Court, State of Nevada, dated  
13 April 11, 2001.
- 14 EXHIBIT 41: Motion for Enlargement of Time to File Response to Petition and  
15 Supplemental Petition for Writ of Habeas Corpus (Post-Conviction), *Terry*  
16 *Jess Dennis v. The State of Nevada*, Case No. CR99-0611, In the Second  
17 Judicial District Court, State of Nevada, filed May 29, 2001.
- 18 EXHIBIT 42: Motion for Enlargement of Time in which to File Supplemental Petition for  
19 Writ of Habeas Corpus (Post-Conviction); Request that Briefing Schedule  
20 be Determined by the Court, *Terry Dennis v. Don Helling, et al.*, Case No.  
21 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
22 June 21, 2001.
- 23 EXHIBIT 43: Ex Parte Motion for Order Allowing Interim Payment of Attorney's Fees  
24 and Costs to Appointed Counsel (Death Penalty Litigation), *Terry Dennis*  
25 *v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District  
26 Court, State of Nevada, filed August 31, 2001.
- 27 EXHIBIT 44: Order Approving Interim Fees and Costs of Court-Appointed Attorney,  
28 *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second  
Judicial District Court, State of Nevada, filed September 11, 2001.
- EXHIBIT 45: Ex Parte Motion for Order Allowing Interim Payment of Attorney's Fees  
and Costs to Appointed Counsel (Death Penalty Litigation), *Terry Dennis*  
*v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District  
Court, State of Nevada, filed February 20, 2002.
- EXHIBIT 46: Order Approving Fees and Costs of Court-Appointed Attorney, *Terry*  
*Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial  
District Court, State of Nevada, filed February 28, 2002.
- EXHIBIT 47: Application for Setting, *Terry Jess Dennis v. State of Nevada*, Case No.  
CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
March 5, 2002.
- EXHIBIT 48: Ex Parte Application for Order to Produce Prisoner, *Terry Dennis v. State*  
*of Nevada*, Case No. CR99-0611, In the Second Judicial District Court,  
State of Nevada, filed March 6, 2002.

- 1 EXHIBIT 49: Order to Produce Prisoner, *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed March 11, 2002.
- 2
- 3 EXHIBIT 50: Return, *Terry Dennis v. Don Helling*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed March 19, 2002.
- 4
- 5 EXHIBIT 51: Ex Parte Motion for Order Allowing Interim Payment of Attorney's Fees and Costs to Appointed Counsel (Death Penalty Litigation), *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed May 22, 2002.
- 6
- 7 EXHIBIT 52: Addendum to Ex Parte Motion for Order Allowing Interim Payment of Attorney's Fees and Costs to Appointed Counsel (Death Penalty Litigation), *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed May 24, 2002.
- 8
- 9
- 10 EXHIBIT 53: Order Approving Fees and Costs of Court-Appointed Attorney, *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed May 28, 2002.
- 11
- 12 EXHIBIT 54: Request for Submission of Motion, *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed May 29, 2002.
- 13
- 14 EXHIBIT 55: Request for Submission, *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed September 6, 2002.
- 15
- 16 EXHIBIT 56: Motion for Enlargement of Time in which to File Supplemental Brief on Ring v. Arizona, *Terry Dennis v. Don Helling*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed September 11, 2002.
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- 18 EXHIBIT 57: Order, *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed September 25, 2002.
- 19
- 20 EXHIBIT 58: Request for Submission, *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed October 2, 2002.
- 21
- 22 EXHIBIT 59: Ex Parte Motion for Order Allowing Interim Payment of Attorney's Fees and Costs to Appointed Counsel (Death Penalty Litigation), *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed November 14, 2002.
- 23
- 24 EXHIBIT 60: Order Approving Fees and Costs of Court-Appointed Attorney, *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed November 19, 2002.
- 25
- 26 EXHIBIT 61: Application for Setting, *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State of Nevada, filed November 27, 2002.
- 27
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- 1 EXHIBIT 62: Request for Submission, *Terry Dennis v. State of Nevada*, Case No.  
2 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
January 13, 2003.
- 3 EXHIBIT 63: Request for Submission, *Terry Dennis v. State of Nevada*, Case No.  
4 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
April 28, 2003.
- 5 EXHIBIT 64: Application for Order to Produce Prisoner, *Terry Dennis v. State of*  
6 *Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State  
of Nevada, filed May 6, 2003.
- 7 EXHIBIT 65: Order to Produce Prisoner, *Terry Dennis v. State of Nevada*, Case No.  
8 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
May 6, 2003.
- 9 EXHIBIT 66: Order, *Terry Dennis v. State of Nevada*, Case No. CR99-0611, In the  
10 Second Judicial District Court, State of Nevada, filed June 4, 2003.
- 11 EXHIBIT 67: Case Appeal Statement, *The State of Nevada v. Terry Jess Dennis*, Case  
12 No. CR99-0611, In the Second Judicial District Court, State of Nevada,  
filed June 25, 2003.
- 13 EXHIBIT 68: Certificate of Transmittal, *The State of Nevada v. Terry Jess Dennis*, Case  
14 No. CR99-0611, In the Second Judicial District Court, State of Nevada,  
filed June 26, 2003.
- 15 EXHIBIT 69: Receipt for Documents, *Terry Jess Dennis v. The State of Nevada*, Case  
16 No. 41664, In the Supreme Court of the State of Nevada, filed July 1,  
2003.
- 17 EXHIBIT 70: Motion to File Late Docketing Statement, *Terry Jess Dennis v. The State*  
18 *of Nevada*, Case No. 41664, In the Supreme Court of the State of Nevada,  
filed July 29, 2003.
- 19 EXHIBIT 71: Order Granting Motion, *Terry Jess Dennis v. The State of Nevada*, Case  
20 No. 41664, In the Supreme Court of the State of Nevada, filed August 1,  
2003.
- 21 EXHIBIT 72: Docketing Statement Criminal Appeals, *Terry Jess Dennis v. The State of*  
22 *Nevada*, Case No. 41664, In the Supreme Court of the State of Nevada,  
filed August 1, 2003.
- 23 EXHIBIT 73: Opposition to Motion for Remand & to Suspend Briefing Schedule, *Terry*  
24 *Jess Dennis v. The State of Nevada*, Case No. 41664, In the Supreme  
Court of the State of Nevada, filed October 3, 2003.
- 25 EXHIBIT 74: Ex Parte Motion for Order Allowing Interim Payment of Attorney's Fees  
26 and Costs to Appointed Counsel (Death Penalty Litigation), *Terry Dennis*  
*v. State of Nevada*, Case No. CR99-0611, In the Second Judicial District  
27 Court, State of Nevada, filed October 13, 2003.
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- 1 EXHIBIT 75: Order Approving Interim Fees and Costs to Appointed Counsel (Death  
2 Penalty Litigation), *Terry Dennis v. State of Nevada*, Case No. CR99-  
3 0611, In the Second Judicial District Court, State of Nevada, filed October  
4 16, 2003.
- 5 EXHIBIT 76: Application for Setting, *Terry Jess Dennis v. State of Nevada*, Case No.  
6 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
7 October 30, 2003.
- 8 EXHIBIT 77: Motion to Withdraw as Counsel of Record, *Terry Jess Dennis v. State of*  
9 *Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State  
10 of Nevada, filed November 7, 2003.
- 11 EXHIBIT 78: Transcript of Proceedings Post Conviction, *Terry Jess Dennis v. State of*  
12 *Nevada*, Case No. CR99-0611, In the Second Judicial District Court, State  
13 of Nevada, dated November 17, 2003.
- 14 EXHIBIT 79: Ex Parte Motion for Order Allowing Payment of Attorney's Fees and Costs  
15 to Appointed Counsel & Affidavit of Counsel (Post-Conviction Petition for  
16 Writ of Habeas Corpus) (Death Penalty Case), *Terry Jess Dennis v. The*  
17 *State of Nevada*, Case No. CR99-0611, In the Second Judicial District  
18 Court, State of Nevada, filed December 12, 2003.
- 19 EXHIBIT 80: Order Approving Fees of Court-Appointed Attorneys (Death Penalty  
20 Case), *Terry Jess Dennis v. State of Nevada*, Case No. CR99-0611, In the  
21 Second Judicial District Court, State of Nevada, filed December 15, 2003.
- 22 EXHIBIT 81: Order, *Terry Jess Dennis v. State of Nevada*, Case No. CR99-0611, In the  
23 Second Judicial District Court, State of Nevada, filed December 22, 2003.
- 24 EXHIBIT 82: Order, *Terry Jess Dennis v. State of Nevada*, Case No. CR99-0611, In the  
25 Second Judicial District Court, State of Nevada, filed December 22, 2003.
- 26 EXHIBIT 83: Motion to Substitute as Counsel on Appeal, *Terry Jess Dennis v. The*  
27 *State of Nevada*, Case No. 41664, In the Supreme Court of the State of  
28 Nevada, filed January 23, 2004.
- EXHIBIT 84: Order Granting Motion, *Terry Jess Dennis v. The State of Nevada*, Case  
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2004.
- EXHIBIT 85: Motion for Leave to Appear as Amicus Curiae, *Terry Jess Dennis v. The*  
*State of Nevada*, Case No. 41664, In the Supreme Court of the State of  
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- EXHIBIT 86: Ex Parte Motion for Order Allowing Payment of Attorney's Fees and Costs  
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*State of Nevada*, Case No. CR99-0611, In the Second Judicial District  
Court, State of Nevada, filed March 11, 2004.

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1 EXHIBIT 87: Order, *Terry Jess Dennis v. The State of Nevada*, Case No. CR99-0611,  
2 In the Second Judicial District Court, State of Nevada, filed March 16,  
2004.

3 EXHIBIT 88: Order Approving Fees Court-Appointed Attorneys (Death Penalty Case),  
4 *Terry Jess Dennis v. The State of Nevada*, Case No. CR99-0611, In the  
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5 EXHIBIT 89: Application for Setting, *The State of Nevada v. Terry Jess Dennis*, Case  
6 No. CR99-0611, In the Second Judicial District Court, State of Nevada,  
filed April 21, 2004.

7 EXHIBIT 90: Application for Order to Produce Prisoner, *The State of Nevada v. Terry*  
8 *Jess Dennis*, Case No. CR99-0611, In the Second Judicial District Court,  
State of Nevada, filed April 22, 2004.

9 EXHIBIT 91: Order to Produce Prisoner, *The State of Nevada v. Terry Jess Dennis*,  
10 Case No. CR99-0611, In the Second Judicial District Court, State of  
Nevada, filed April 23, 2004.

11 EXHIBIT 92: Ex Parte Motion for Order Allowing Interim Payment of Attorney's Fees  
12 and Costs to Appointed Counsel (Death Penalty Litigation), *Terry Jess*  
*Dennis v. State of Nevada*, Case No. CR99-0611, In the Second Judicial  
13 District Court, State of Nevada, filed April 23, 2004.

14 EXHIBIT 93: Order Approving Interim Fees and Costs of Court-Appointed Attorney  
(Death Penalty Litigation), *Terry Dennis v. State of Nevada*, Case No.  
15 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
April 27, 2004.

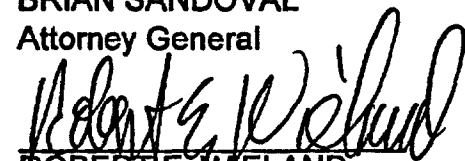
16 EXHIBIT 93: Order Approving Interim Fees and Costs of Court-Appointed Attorney  
(Death Penalty Litigation), *Terry Dennis v. State of Nevada*, Case No.  
17 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
18 April 27, 2004.

19 EXHIBIT 94: Order of Execution, *The State of Nevada v. Terry Jess Dennis*, Case No.  
20 CR99-0611, In the Second Judicial District Court, State of Nevada, filed  
May 17, 2004.

21 RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of June 2004.

22 BRIAN SANDOVAL  
23 Attorney General

24 By:

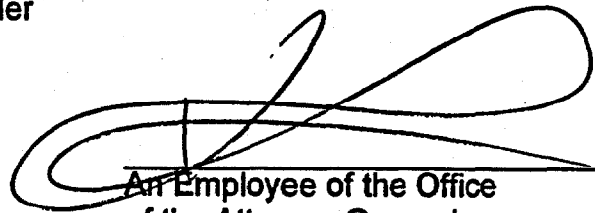
  
25 ROBERT E. MELAND  
26 Senior Deputy Attorney General  
27 Criminal Justice Division  
28 (775) 688-1818

000008

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the Office of the Attorney General of the State of Nevada and that on this 26<sup>th</sup> day of June 2004, I served a copy of the foregoing INDEX OF EXHIBITS IN SUPPORT OF MOTION TO DISMISS VOL. I OF II, by mailing a true copy, postage prepaid, to:

John Lambrose  
Assistant Federal Public Defender  
330 S. Third St., Ste. 700  
Las Vegas, NV 89101

  
An Employee of the Office  
of the Attorney General

000009

FILED

In the Justice Court of Reno Township, County of Washoe,  
STATE OF NEVADA

99 MAR 26 A9:17

The State of Nevada

PLAINTIFF

VS.

TERRY JESS DENNIS  
89792605

DEFENDANT

COMPLAINT OF  
Daniel J. Greco  
AGENCY NO. RPD 064128-99

DA'S NO. 176802

ATTORNEY FOR PLAINTIFF  
DISTRICT ATTORNEY: Daniel J. Greco

ATTORNEY FOR DEFENDANT:

PUBLIC DEFENDER

CHARGING: MURDER WITH THE USE OF A DEADLY WEAPON, a violation of NRS 193.165, NRS 200.010 and NRS 200.030, a felony.

DATE  
1999

PROCEEDINGS

J = Judge; P = Prosecutor; D = Defendant; CR = Court Reporter; I = Interpreter; DC = Defense Counsel; DDA = Deputy District Attorney; DAG = Deputy Attorney General; DPD = Deputy Public Defender; CA = Conflict Attorney; PT = Pro Tem Judge

Mar. 10 Probable Cause Affidavit reviewed by Judge.  
Probable Cause found.

Mar. 12 J: J. Schroeder CR: B. Martinelli  
P: DDA Thomas R. Wilson I: None  
D: Terry Jess Dennis DC: DPD None

Defendant appeared for arraignment at the end of 72 hours.  
The State requested until 3:30 P.M. to file a Criminal  
Complaint and have the formal arraignment. Good cause  
appeared and arraignment was continued to March 16, 1999 at  
10:00 A.M.

Mar. 12 Complaint filed and Defendant in custody.

Mar. 15 J: E. Dannan CR: C. Brown  
P: DDA None I: None  
D: Terry Jess Dennis DC: DPD None

Defendant duly arraigned, advised of rights and informed of  
Complaint. Preliminary Examination set for March 25, 1999,  
at 1:30 P.M. Bail set at NO BAIL. Defendant remanded to  
the custody of the Washoe County Sheriff.

000010

Defendant requested appointment of the Washoe County Public

03/25/99

**Court Report**

**DENNIS, TERRY JESS**

**Assign CSO: SD**

**Case#/Charges Information -**

**Case#**  
**6412899**  
**Case Type**  
**FELONY**  
**Court**  
**RENO JUSTICE COURT**  
**Courthouse**

**-- CHARGE --**  
**MURDER**  
**Charge Type**  
**FELONY**  
**Date**  
**03/10/99**  
**Count**  
**Bond Type**  
**No Bail**  
**Bond Amount**  
**\$0.00**

**Case#**  
**6959697**  
**Case Type**  
**MISDEMEANOR**  
**Court**  
**RENO MUNICIPAL COURT**  
**Courthouse**

**-- CHARGE --**  
**FAILURE TO COMPLY WITH ORDER**  
**Charge Type**  
**MISDEMEANOR**  
**Date**  
**03/10/99**  
**Count**  
**Bond Type**  
**Bondable**  
**Bond Amount**  
**\$250.00**  
**Charge Note -**  
**ORIGINAL CHARGE POSS OPEN CONTAINER**

**Release Recommendations/Conditions Of Bond -**

**Date**  
**03/10/99**  
**Recommendation**  
**DENIED O/R**  
**Risk of Failure To Appear**  
**NATURE OF THE CHARGE --- NO BAIL**

**Staff**  
**DEBOER, SHATALAINE**

**NO INFORMATION VERIFIED DUE TO THE NATURE OF THE CHARGES**

**000011**

03/25/99

## Court Report

DENNIS, TERRY JESS

Assign. CSO: SD

## Demographics -

SSN 534-44-8825	FBI/NCIC	Assigned CSO SD	Booking # HIT LIST? 1006499	Interpreter Needed?
Arresting Agency RPD	Place of Birth EVERETTE, WA	Citizen Of U.S.		
Language ENGLISH	Race WHITE	Gender Male	DOB 10/14/46	Age 52
Height 600	Weight 170	Eyes HAZ	Hair BRO	Marital DIVORCED

AKA:  
HOWARD CANN

## Residence -

Current Address - 490 LAKE ST RENO, NV 89503	Phone	Since 0 Yr 0 Mo	Verified N
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Prior Addresses - * No Fixed Address *	Phone	From/To 11/97-03/99	Verified N
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With  
ROOMMATE - Name: JOHN FIE

Prior Addresses - 71 VINE ST RENO, NV 89503	Phone	From/To 07/96-07/97	Verified N
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With  
- Name: SELF

## Employment/Support -

Current Employment Status - Unemployed	Since 07/97 (1 Yr 8 Mo)	Verified N
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Unemployment Details -  
Means of Support: DISABILITY

Prior Employment - Employed	From/To - 07/97	Occupation HAND OUT FLYERS	Verified N
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Employment Details  
EDDY'S FABULOUS FIFTIES

Prior Employment - Employed: Full-Time	From/To 09/95 - 03/97	Occupation GARAGE PORTER	Verified N
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Employment Details  
CAL NEVA

Wage: \$5.25 per: HR Hours per: 40 Last Worked: 09/26/95

## Education -

Education  
Completed: High School, Some College  
Highest Grade Completed: 13

000012

03/25/99

## Court Report

**DENNIS, TERRY JESS**

Assigl. CSO: SD

### **Military Service -**

#### **Military Service**

Branch: AIR FORCE From: 01/65 To: 11/68 (3 Yr 10 Mo) Highest Grade/Rank Achieved: E-3

Type of Discharge: Honorable Grade/Rank at Time of Discharge: E3

### **Substance Abuse History -**

#### **Usage:**

Substance	Frequency	Method	Last Used	How Long	Verified
ALCOHOL	DAILY	INGEST	07/21/97		N

*Details - \* Drug Of Choice \* Abuse Concern Interested In Treatment*

#### **Drug Usage Note -**

**HAS BEEN THROUGH VA PROGRAM IN THE PAST.**

**07-22-97 DRINKS DAILY, BUT STATES THAT HE DOES NOT NEED TREATMENT**

**04/26/98-DEF STILL THINKS HE HAS NO PROBLEM WITH ALCOHOL-EMPHATIC ABOUT NO PROBLEM**

### **Criminal History -**

Date	Charges	Disposition
	PER DEFENDANT - UNVERIFIED	

#### **Criminal History Note --**

Notes - PRISON FOR ASSAULT ATTEMPTED MURDER-2 1/2

PRISON POSS MARI-2 YRS

FEL IN POSS OF FIREARM

COUPLE OF ASSAULTS

3 X DUI

MULTIPLE FTA'S

09/95 DRINKING IN PUBLIC

03/97 DRINKING IN PUBLIC

07/97 BATTERY

07/97 BATTERY

04/98 FAILURE TO COMPLY WITH ORDER

000013

Client: DENNIS, TERRY JESS

S...: 534-44-8825 DOB: 10/14/46

Assigned CSO: SD

Case#: 6412899; 6959697

**I. Identification**

County:

Court:

RENO MUNICIPAL COURT

Jurisdiction:

WASHOE COUNTY, NV

Case Type:

MISDEMEANOR

Charge(s):

MURDER; FAILURE TO COMPLY WITH ORDER

Address:

490 LAKE ST RENO, NV 89503 - Since: Length: 0 Yrs 3 Months

Occupation and Employer:

Phone:

Unemployed Since: 07/97

**II. Support Obligations**

Juvenile Client? No Lives w/parents? No

Dependants: Total# 0 Ages Live w/client No

**III. Presumptive Eligibility****IV. Monthly Income**

Verified

Take-home pay (after deductions) \_\_\_\_\_

Spouses take-home pay \_\_\_\_\_

Contributions from any persons domiciled with client and helping to defray basic living costs \_\_\_\_\_

Interest, dividends, or other earnings \_\_\_\_\_

Non-poverty based assistance (Unemployment, Social Security, Workers Comp, pension, annuities) \_\_\_\_\_

Other Income: \_\_\_\_\_

Notes:

**Total Monthly Income:****V. Monthly Expenses**

Verified

**Basic Living Costs**

Shelter (rent, mortgage, board) \_\_\_\_\_

Utilities \_\_\_\_\_

Food \_\_\_\_\_

Clothing \_\_\_\_\_

Health Care \_\_\_\_\_

Transportation \_\_\_\_\_

Loan payments: \_\_\_\_\_

**Court Imposed Obligations**

Bail/bond paid or anticipated \_\_\_\_\_

Other expenses \_\_\_\_\_

Notes: RENT WILL BE 375 PER MONTH WHEN HE GETS A PLACE.

**Total Monthly Expenses:**

000014

Client: DENNIS, TERRY JESS

SSN: 534-44-8825 DOB: 10/14/46

Assigned CSO: SD

Case(s): 6412899; 6959697

## VI. Total Income Part IV, minus Total Expenses Part V

Disposal Net Monthly Income:

## VII. Liquid Assets

Verified

Cash, savings, bank accounts (including joint accounts) \_\_\_\_\_

Stocks, bonds, certificates of deposit: \_\_\_\_\_

Equity in real estate: \_\_\_\_\_

Equity in motor vehicle required for employment: Type: - Year: - Color \_\_\_\_\_

Equity in additional vehicles \_\_\_\_\_

Personal property: \_\_\_\_\_

Notes: \_\_\_\_\_

Total Liquid Assets:

## VIII. Affidavit and Notification

I hereby apply for appointment of the Washoe County Public Defender and state under penalty of perjury: (1) I am indigent and (2) I am without financial means to hire an attorney because: (a) I have no personal funds and no family or friends who can hire an attorney for me and/or (b) I have no assets of any kind in this state or elsewhere which can be used to hire an attorney.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_ Place: \_\_\_\_\_  
TERRY JESS DENNIS

## IX. Determination of Indigency

a. Disposable Net Monthly Income (from Section VI) \_\_\_\_\_

b. Total Liquid Assets (from Section VII) \_\_\_\_\_ +

c. Total Available Funds (a plus b) \_\_\_\_\_ =

d. Anticipated Cost of Counsel for Offense Type(s) \_\_\_\_\_

Assessment Amount:

X. ~~Determination~~ Recommendation \*\*INDIGENT\*\*

THE DEFENDANT HAS NO ADDRESS OR JOB. HE PLANS TO GET A PLACE ON THE FIRST OF THE MONTH WHEN HE GETS HIS CHECK. DEFENDANT CLAIMS NO ASSETS AND HE REMAINS IN CUSTODY AS OF 7-23-97. FINANCIAL UPDATE 03/15/99 DEFENDANT STATES HE HAS NO INCOME, EMPLOYMENT OR ASSETS.

The above constitutes my recommendation to the court. I have explained my recommendation to the party.

Screening Agent/Witness: Strong, Anita

Date: 03/15/99

Signature: \_\_\_\_\_ Agency/Organization: Washoe County, Nevada (Server)

## XI. Finding

\_\_\_\_\_ Indigent \_\_\_\_\_ Not Indigent \_\_\_\_\_ Indigent and Able to Contribute Assessment Amount: \$ \_\_\_\_\_

Judge or Judge's Designee: \_\_\_\_\_ Title: \_\_\_\_\_

000015

In the Justice Court of Reno Township

County of Washoe, State of Nevada

FILED

176802

DV3

'99 MAR 29 08:08

CR99-0611

THE STATE OF NEVADA,

Plaintiff,

vs.

Terry Jess Dennis  
Defendant.

AMY HARVEY, CLERK

BY

DEPUTY

No. 97670

**Waiver of Preliminary Examination**

I, the Defendant in the above-entitled action, being fully advised of my rights in the premises, hereby waive my preliminary examination on the charge of murder with deadly weapon, a felony, in the above entitled action, and consent that I may be remanded to the Second Judicial District Court of the State of Nevada, for further proceedings therein.

DATE: 3/24/99

Terry Jess Dennis

000016

# CRIMINAL PROGRESS SHEET

Case No. CR99-0611  
TERRY JESS DENNIS

STATUS: Custody ☐ JIC ☐  
 Bail ☐ OR ☐

Bail Amount: \_\_\_\_\_  
 Date Inf/Ind filed: 3/29/99  
 Amended Inf. filed: \_\_\_\_\_

Arraignment Date: 4/16/99

Dept. No: 1 Reporter: N. Alexander

True Name: ☒ same

Handed Copy ☒

Not Guilty ☐ By: \_\_\_\_\_

Waived Reading ☒

Requested Time to Plea ☐

Guilty ☒ Nolo ☐ To: Info

Waived PSI ☐

Juv. Ref. \_\_\_\_\_

P & P Ref. Dana Liken → 4/16/99

Waived 60 Day: Yes ☐  
 Date \_\_\_\_\_ No ☐

Continued To: July 19, 1999 @ 9:00

For: 3 judge panel

For: \_\_\_\_\_

For: \_\_\_\_\_

For: \_\_\_\_\_

For: \_\_\_\_\_

Sentencing Date: \_\_\_\_\_ Dept. No. \_\_\_\_\_ Reporter: \_\_\_\_\_

Disposition: \_\_\_\_\_

\_\_\_\_\_

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#1 4/16/99 (Alexander) Motion to amend info by interlineation → no obj by defense → granted

#1 7/20/99 (Sunshine) Three judge Death Penalty Panel → Court sentenced Deft to Death - Execution set on week of 9/27/99

5/17/04 → Hearing to set new execution date → granted  
Court signed proposed orders

CASE NO. CR99P0611

TERRY JESS DENNIS VS. STATE OF NEVADA

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

12/04/03  
HON. JANET J.  
BERRY  
DEPT. NO. 1  
M. Logan  
(Clerk)  
C. Wolden  
(Reporter)

HEARING

Deputy D.A. Joseph Plater represented the State.  
Petitioner was present with counsel, Scott Edwards.  
Court noted the Petitioner had a meeting with Dr. Bittker, further noted she had received an Order from the Supreme Court directing her to find the Petitioner competent and made statements thereto. In response to the Court, counsel for State indicated he had received said report.

The following exhibits were ordered marked and admitted:

Petitioner's exhibits 1, 2 and 3

Counsel for Petitioner made corrections to Dr. Bittker's report. Respective counsel had no objection to the Court noting Petitioner's corrections on said report.

Counsel for Petitioner addressed the Court, read a portion of the Supreme Court Order, stated the Court was to address the representation of the Petitioner, which had been done previously, further stated the Court was to determine competency of the Petitioner to make the decision to withdraw his appeal and forego further litigation and that said decision was made knowingly and voluntarily.

Counsel for Petitioner discussed the findings of Dr. Bittker. Court made inquiries of the Petitioner, to which he responded thereto.

Further discussion between Court and respective counsel.

**COURT ORDERED:** Court made finding based upon the report authored by Dr. Bittker that the Petitioner was competent at the time he entered his plea of Guilty in the above-entitled matter and further stated that said Petitioner was competent to make decisions on his own behalf.

Court noted she had conferred with respective counsel yesterday via telephone to discuss the report, informed said counsel she was satisfied with the content of said report and further advised both counsel if they desired to question Dr. Bittker regarding his findings, he could be present at this hearing.

Court further noted Petitioner's exhibit 3 would be attached to the Findings of Fact, Conclusion of Law.

Court made further finding that pursuant to Nevada law, the Petitioner had sufficient ability to understand the nature of the

000018

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

12/04/03  
HON. JANET J.  
BERRY  
DEPT. NO. 1  
M. Logan  
(Clerk)  
C. Wolden  
(Reporter)

HEARING - CONTINUED

proceedings, that said Petitioner is competent to make decisions and read from page eight (8) of Dr. Bittker's report.

Court stated it was apparent the Petitioner did not desire to pursue any further appeal or writ in the above-entitled matter based upon her inquiries.

Court made further inquiries of the Petitioner, to which he responded thereto.

Court reviewed the thirty-three (33) grounds raised by the Petitioner's former counsel, Karla Butko, which might be a legal basis for further court proceedings for Petitioner to avoid the Death Penalty.

In response to the Court, Petitioner stated it was his desire to be executed.

Court canvassed the Petitioner as to his decision to be executed. Counsel for Petitioner made inquiries of Petitioner, to which he responded thereto.

Counsel for State requested the Court to inquire of Petitioner if he continues to have a rationale understanding of these proceedings. Court further canvassed the Petitioner as to the effect of withdrawing his appeal and writ and the consequences thereto. In response to the Court, respective counsel stated they did not have any supplemental questions.

Counsel for Petitioner made statements as to the Ring vs. Arizona case.

Court stated the above hearing was to address the specific directions from the Supreme Court and further stated she did not believe she was in a position to discuss the circumstances of the Ring case.

Court directed counsel for State to draft the proposed order and further directed counsel for Petitioner to assist.

Court instructed respective counsel to footnote the newest case and note that this Court did not consider application of that particular case.

Petitioner stated it was his desire to die forthwith.

In response to the Court, counsel for Petitioner stated he had many communications with the Petitioner.

CASE NO. CR99P0611

TERRY JESS DENNIS VS. STATE OF NEVADA

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

12/04/03  
HON. JANET J.  
BERRY  
DEPT. NO. 1  
M. Logan  
(Clerk)  
C. Wolden  
(Reporter)

HEARING - CONTINUED

COURT ORDERED: Court made finding Petitioner knowingly, voluntarily and intelligently waived his rights and further made finding the Petitioner has full comprehension of the ramifications of his decision and accepts said decision.

Court further ordered counsel for Petitioner to remain as counsel of record throughout the proceedings and informed the Petitioner he may contact his counsel at any time if his view changed.

Court directed the court reporter to transcribe the above hearing immediately.

Court directed respective counsel to provide the Court with the proposed draft, accompanied by a disc, no later than 4:00 p.m. on Friday, December 12, 2003.

Court referred respective counsel to 111 NEV 1019 as well as the Supreme Court Order granting the motion that ordered this hearing. Court read Petitioner's criminal history as reflected in the P.S.I. report.

Counsel for Petitioner requested the Petitioner be transported to the Nevada State Prison at the conclusion of the above hearing;  
**SO ORDERED.**

Court directed the court clerk to locate the original report authored by Dr. Bittker and file the same to make it part of the record.  
Petitioner remanded to the custody of the Sheriff.

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CASE NO. CR99P0611

TERRY DENNIS VS. THE STATE OF NEVADA

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

11/17/03  
HON. JANET J.  
BERRY  
DEPT. NO. 1  
M. Logan  
T. Clements  
(Clerk)  
W. Pearson  
(Reporter)

MOTION TO WITHDRAW AS COUNSEL

Petitioner present with counsel, Karla Butko.  
Deputy D.A. Joe Plater represented the State.  
Counsel Scott Edwards, also present.  
Counsel Butko addressed the Court and stated she filed a motion to withdraw as counsel on November 5, 2003 due to Petitioner's change of mind to be executed which conflicts with her beliefs and further stated attorney Scott Edwards was present and prepared to step in as counsel for Petitioner. Counsel Butko requested a psychiatric evaluation of the Petitioner; counsel Plater presented argument regarding the evaluation and made no objection as to the withdrawal of counsel Butko and appointment of counsel Edwards. Court made inquiry to Petitioner as to his rights; Petitioner responded he wanted to waive his appeal rights and go forward with execution.

Court made inquiry to Petitioner as to his counsel; Petitioner responded thereto.

Court made inquiry to counsel Edwards as to his preparedness for this case; counsel Edwards responded he was prepared, even if Petitioner changed his mind.

COURT ORDERED: Motion to withdraw counsel granted and appointed counsel Scott Edwards as counsel for Petitioner. Court and counsel Edwards further discussed the mental health issues and evaluation of Petitioner.

COURT ORDERED: Petitioner to obtain psychiatric evaluation to meet the requirements of the Nevada Supreme Court's order. Court directed counsel Edwards to contact psychiatrist to schedule evaluation and prepare written order of this hearing within forty-eight (48) hours, no later than 4:00 p.m. on Wednesday, November 26, 2003.

Court made inquiry to Petitioner as to his consent to have both counsel Butko and Edwards available to assist in the evaluation; Petitioner gave his consent.

Counsel Edwards made inquiry as to psychological evaluation as opposed to a psychiatric evaluation. Court responded that because medications are involved, it would be necessary for a psychiatrist to conduct the evaluation since psychologists do not prescribe

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CASE NO. CR99P0611

TERRY DENNIS VS. THE STATE OF NEVADA

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

11/17/03  
HON. JANET J.  
BERRY  
DEPT. NO. 1  
M. Logan  
T. Clements  
(Clerk)  
W. Pearson  
(Reporter)

MOTION TO WITHDRAW AS COUNSEL - CONTINUED

medications.

Court directed respective counsel to set the evidentiary hearing in this matter the week of December 15, 2003 and counsel Edwards to research medical records and generate the order to get the doctor scheduled to conduct the evaluation at either the jail or the prison.

COURT ORDERED: Petitioner to remain at the Washoe County Detention Facility until further order of the Court.

Petitioner remanded to the custody of the Washoe County Jail.

000022

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

## APPEARANCES-HEARING

CONTINUED TO

04/11/01

DEATH WARRANT EXECUTION - NEW DATE

HONORABLE

Deputy District Attorney Dan Greco represented the State.

JANET J.

Defendant was present with counsel, Deputy P.D. Maizie Pusich and  
Deputy P.D. John Petty.

BERRY

DEPT. NO. 1

Court noted she had received by Federal Express a copy of a Writ of  
Habeas Corpus, Stay of Execution, Motion for Forma Pauperis and  
Motion to Appoint Counsel.T. Cervantes  
(Clerk)

D. Cecere

(Reporter)

Counsel Pusich responded and indicated they were aware of the documents  
submitted to the Court.Counsel for State indicated they were in phase two and submitted the  
warrant of execution to the Court and requested the Court to set a date no  
less than fifteen (15) days no more than thirty (30) days from the date  
thereof.Counsel Pusich further indicated that the remittitur had in fact been  
returned and had no objection to the Court imposing the new date, further  
requested that the Court find the Defendant indigent, appoint counsel and  
sign a stay of execution.Defendant responded to the Court and indicated he had discussed his  
rights with counsel and was in agreement thereto.COURT ORDERED: That the Director of the Nevada Department of  
Prisons shall cause the judgment of death to be inflicted by lethal injection  
on the day of Monday, April 30, 2001.Court further finds the Defendant indigent, will appoint counsel, further  
granted the Defendant's Motion for Stay of Execution and will proceed on  
the Writ.Counsel Greco indicated he would take care of the paperwork and submit  
the following to all agencies.

Defendant remanded to the custody of Nevada State Prison.

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/19/99

HON. JANET J.  
BERRY

HON. MICHAEL  
CHERRY

HON. MICHAEL  
MEMEO

DEPT. NO. I

M. Logan  
(Clerk)

E. Luschar

C. Wolden

(Reporters)

**PENALTY HEARING - THREE JUDGE PANEL**

Deputy D.A. Daniel Greco represented the State.

Defendant present with counsel, Deputy P.D. Maizie Pusich and  
Deputy P.D. John Petty.

Prior to the commencement of Court, the following exhibits were  
marked for identification only:

**State's exhibits 1 through 8, 16.1 through 16.8**

**Defendant's exhibits 9 through 13, 14 and 15.1 through  
15.5**

Court noted the Three (3) Judge Panel was appointed by Supreme  
Court Justice Robert Rose and further noted respective counsel  
had conferred with court staff for placement of electronic devices  
and equipment within the courtroom for the above proceedings.  
Respective counsel stipulated the Defendant's hands may be  
unrestrained to assist defense counsel; **SO ORDERED.**

Counsel for State presented a brief opening statement.

Counsel Pusich stated she would not be presenting an opening  
statement.

Court noted she had met previously with respective counsel in  
chambers and based upon stipulation of said counsel, certain  
materials were provided to the Honorable Michael Cherry and the  
Honorable Michael Memeo for their review.

Court further noted she had received a copy of the P.S.I. report and  
provided copies of said report to the Honorable Michael Cherry and  
the Honorable Michael Memeo.

In response to the Court, respective counsel indicated they had  
reviewed the P.S.I. report and further, counsel Pusich indicated she  
had reviewed said report with the Defendant.

**Robin Carothers** was called by counsel for State, sworn and  
testified.

The following exhibit was ordered admitted per stipulation of  
respective counsel during the testimony of witness Carothers:

**State's exhibit 4**

State's exhibit 4 was played for the Three (3) Judge Panel.

CASE NO. CR99-0611

STATE OF NEVADA VS. TERRY JESS DENNIS

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/19/99

HON. JANET J.  
BERRY  
HON. MICHAEL  
CHERRY  
HON. MICHAEL  
MEMEO  
DEPT. NO. 1  
M. Logan  
(Clerk)  
E. Luschar  
C. Wolden  
(Reporters)

**PENALTY HEARING - THREE JUDGE PANEL - CONTINUED**

A sidebar conference was held.

Court took a brief recess.

Court reconvened.

Court noted at the sidebar conference, counsel for State requested a brief recess since the two (2) detectives, who were subpoenaed to testify, were delayed.

Court further noted every effort would be made to not hold sidebar conferences, however, if any were necessary, the court reporter would be present.

Respective counsel stated their qualifications and experience pursuant to Rule 250 on the record.

**Robert Bennett** was called by counsel for State, sworn, testified and cross-examined by counsel Pusich.

The following exhibits were ordered admitted per stipulation of respective counsel, during the testimony of witness Bennett:

**State's exhibits 1.1 through 1.4 and 2**

Counsel Pusich stipulated the name of the victim in the above-entitled matter was Ilona Straumanis.

Honorable Michael Cherry made inquiries of witness Bennett, to which he responded thereto.

**James Harold Burke** was called by counsel for State, sworn and testified.

Counsel for State moved to admit State's exhibit 5; counsel Pusich responded and indicated she had an issue with some of the redaction of State's exhibit 5 and made statements thereto.

Honorable Michael Cherry stated it was his desire to view the video tape in it's entirety.

Counsel for State moved to withdraw State's exhibit 5 and mark the video tape of the entire interview next in order; **SO ORDERED.**

The following exhibit was ordered marked and admitted per stipulation of respective counsel during the testimony of witness Burke:

**State's exhibit 17**

000025

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/19/99

HON. JANET J.  
BERRY

HON. MICHAEL  
CHERRY

HON. MICHAEL  
MEMEO

DEPT. NO. 1

M. Logan  
(Clerk)

E. Luschar

C. Wolden  
(Reporters)

**PENALTY HEARING - THREE JUDGE PANEL - CONTINUED**

Counsel Pusich addressed the Court and indicated respective counsel had previously conferred with the court reporter and had stipulated to provide said reporter with the Reno Police Department's transcription of State's exhibit 17 and further requested said transcription to be made part of the record; no objection and response by counsel for State; **SO ORDERED.** Court directed counsel for State to provide said transcription for appellate purposes, and further ordered said transcription be marked and admitted when available.

The Three (3) Judge Panel viewed State's exhibit 17.

Court requested the playing of State's exhibit 17 be discontinued due to the inaudible portions of said tape and further requested counsel for State provide the transcript to each Judge on the Panel. Court took a brief recess.

The following exhibit was marked for identification only during said recess:

**State's exhibit 18**

Court reconvened.

Counsel for State informed the Court he had placed copies of the transcript of State's exhibit 17 on the bench and provided a copy to the court reporter and further informed the Court said transcript had been marked State's exhibit 18 during the recess.

The Three (3) Judge panel continued viewing State's exhibit 17.

Respective counsel stipulated to fast forward portion of video tape; **SO ORDERED.**

In response to the Court, counsel Pusich indicated she had not acquired the Defendant's military records and made statements thereto and further indicated the P.S.I. report made some references to the Defendant's military service which she could utilize.

Court recessed.

Subsequent to the lunch recess, the court reporter Corrie Wolden, commenced reporting.

Respective counsel stipulated to the admittance of State's exhibit 8 and further stipulated said exhibit was the belt referred to in the

CASE NO. CR99-0611

STATE OF NEVADA VS. TERRY JESS DENNIS

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/19/99

HON. JANET J.

BERRY

HON. MICHAEL

CHERRY

HON. MICHAEL

MEMEO

DEPT. NO. 1

M. Logan

(Clerk)

E. Luschar

C. Wolden

(Reporters)

**PENALTY HEARING - THREE JUDGE PANEL - CONTINUED**

testimony of witness Bennett and subsequently collected for forensic testing; COURT ORDERED: State's exhibit 8 is hereby admitted.

Counsel Pusich addressed the Court and indicated the Defendant had previously waived his right to wear civilian clothing and further indicated she had provided the Defendant a jacket because he was cold.

In response to the Court, Defendant stated he did not desire to wear civilian clothing other than the jacket so provided.

The Three (3) Judge Panel continued viewing State's exhibit 17.

Court recessed for a break.

Court reconvened.

Court noted prior to proceeding with the viewing of exhibit 17, her court clerk had brought to her attention that exhibit 18 had not been formally admitted; counsel for Defendant moved to admit State's exhibit 18; no objection by counsel for State; COURT ORDERED: State's exhibit 18 is hereby admitted.

Counsel for State addressed the Court and indicated the defense counsel would stipulate to the calling of State's witness Dr. Raven out of turn if the Panel had no objection; SO ORDERED.

Katherine Raven was called by counsel for State, sworn, testified and cross-examined.

Respective counsel stipulated to the qualifications of witness Raven.

The following exhibits were ordered admitted per stipulation of respective counsel during the testimony of witness Raven:

**State's exhibits 16.1 through 16.8**

The following exhibit was ordered admitted during the testimony of witness Raven:

**State's exhibit 9**

Honorable Michael Cherry made inquiries of witness Raven, to which she responded thereto.

Honorable Janet Berry made inquiries of witness Raven, to which she responded thereto.

Court inquired if respective counsel had any additional questions of the witness, based upon the questions by the Panel; counsel for State and counsel Pusich each had one additional question.

000027

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/19/99

HON. JANET J.

BERRY

HON. MICHAEL

CHERRY

HON. MICHAEL

MEMEO

DEPT. NO. I

M. Logan

(Clerk)

E. Luschar

C. Wolden

(Reporters)

**PENALTY HEARING - THREE JUDGE PANEL - CONTINUED**

James Harold Burke, heretofore sworn, resumed the stand and further testified.

The Three (3) Judge Panel continued viewing State's exhibit 17. Respective counsel stipulated to fast forward portion of video tape; SO ORDERED.

Counsel for Defendant requested the Panel to note the remainder of the Reno Police Department transcript was duplicative; SO NOTED.

The following exhibit was ordered admitted per stipulation of respective counsel during the testimony of witness Burke:

**State's exhibit 3**

Honorable Michael Cherry made inquiries of witness Burke, to which he responded thereto.

The following dates were stipulated to by respective counsel:

**Defendant initially checked into motel - Wednesday, March 3, 1999**

**Defendant changes room in motel - Friday, March 5, 1999**

**911 call from motel - Tuesday, March 9, 1999**

The following exhibit was ordered marked and admitted during the testimony of witness Burke:

**State's exhibit 19**

The following exhibit was ordered withdrawn during the testimony of witness Burke:

**State's exhibit 3**

Barbara Jean Johnson was called by counsel for State, sworn, testified and cross-examined by counsel Pusich.

The following exhibit was ordered admitted per stipulation of respective counsel during the testimony of witness Johnson:

**State's exhibit 6**

COURT ORDERED: Matter continued until Tuesday, July 20, 1999 at 9:00 a.m.

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/20/99

HON. JANET J.

BERRY

HON. MICHAEL

CHERRY

HON. MICHAEL

MEMEO

DEPT. NO. I

M. Logan

(Clerk)

D. Greco

D. Phipps

(Reporters)

**PENALTY HEARING - THREE JUDGE PANEL - CONTINUED**

Deputy D.A. Daniel Greco represented the State.

Defendant present with counsel, Deputy P.D. Maizie Pusich and Deputy P.D. John Petty.

Prior to the commencement of Court, the following exhibit was marked for identification only:

**State's exhibit 20**

The following exhibit was ordered admitted per stipulation of respective counsel:

**State's exhibit 20**

Counsel Pusich addressed the Court and indicated she had prepared an Affidavit of Compliance with SCR 250, and presented said Affidavit to the Court.

The following exhibit was ordered marked and admitted:

**Defendant's exhibit 21**

Lana Miller was called by counsel for State, sworn, testified and cross-examined by counsel Pusich.

Counsel Pusich objected to the testimony of witness Miller as it related to the second page of the witnesses' statement, due to said page being provided the morning the above hearing commenced; response by counsel for State.

Further discussion between Court and respective counsel.

**COURT ORDERED:** Objection sustained. The Court hereby strikes the testimony from the witness as it relates to the information on the second page of the witnesses' statement. Court further ordered the witness statement to be marked and admitted.

The following exhibit was ordered marked and admitted:

**State's exhibit 22**

Court read the first page of State's exhibit 22 into the record to define the parameters of what counsel for State could pursue.

Counsel for State requested the witness be allowed to testify as to the arson due to the notice given to defense counsel; **COURT ORDERED:** The witness can testify from her independent recollection of the arson.

Honorable Michael Cherry made further inquires of witness Miller, to which she responded thereto.

CASE NO. CR99-0611

STATE OF NEVADA VS. TERRY JESS DENNIS

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/20/99

HON. JANET J.

BERRY

HON. MICHAEL

CHERRY

HON. MICHAEL

MEMEO

DEPT. NO. 1

M. Logan

(Clerk)

D. Greco

D. Phipps

(Reporters)

**PENALTY HEARING - THREE JUDGE PANEL - CONTINUED**

Stephen Foster was called by counsel for State, sworn, testified and cross-examined by counsel Pusich.

The following exhibit was ordered admitted per stipulation of respective counsel during the testimony of witness Foster:

**State's exhibit 7**

Counsel for State addressed the Court and moved to re-mark State's exhibit 5 which had been previously withdrawn and presented argument thereto.

In response to the Court, counsel Petty stated the appellate process as it related to exhibits which are marked but not admitted. Further discussion between Court and respective counsel.

The following exhibit was ordered re-marked and admitted:

**State's exhibit 5**

State rested.

Counsel Petty addressed the Court and moved the courtroom be cleared for discussions with the Defendant; SO ORDERED.

Court took a recess.

Court reconvened.

Court noted the Court stood in recess to allow defense counsel to confer with the Defendant.

The following exhibit was ordered admitted per stipulation of respective counsel:

**Defendant's exhibits 10, 11, 12, 13, 14, 15.1 through 15.6**

Counsel Pusich addressed the Court and indicated the Defendant did not desire to testify on his own behalf or make a statement of allocution.

Upon direction of the Court, the Defendant was sworn.

Honorable Michael Cherry extensively canvassed the Defendant.

Counsel Pusich supplemented the record and explained why the Defendant was angry regarding activities which had taken place at the Washoe County Jail while the Defendant was in court yesterday.

Honorable Michael Cherry continued the canvass of the Defendant.

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DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/20/99

HON. JANET J.

BERRY

HON. MICHAEL

CHERRY

HON. MICHAEL

MEMEO

DEPT. NO. 1

M. Logan

(Clerk)

D. Greco

D. Phipps

(Reporters)

**PENALTY HEARING - THREE JUDGE PANEL - CONTINUED**

Court noted the Defendant's exhibits 10, 11, 12, 13, 14, 15.1 through 15.5 were stipulated into evidence and would have been introduced through witnesses had the Defendant allowed a defense to be presented.

Court reviewed State's exhibits 6 and 7 and found each to be constitutionally valid proof of prior convictions.

Court made inquires of the Defendant, to which he responded thereto.

Court inquired if any person was present to make a statement on behalf of the Defendant or on behalf of the victim, to which there was no response thereto.

Counsel for State requested the Court to supplement the Court's canvass.

Court supplemented the canvass as stated by counsel for State. Honorable Michael Memeo noted the Defendant's demeanor, being alert, oriented to time and place and acting appropriately and further noted the Defendant's mood as stable and appropriate. Counsel Pusich addressed the Court and made corrections to the P.S.I. report; Court made said corrections by interlineation.

In response to the Court, Defendant stated there were no further corrections to said report and further stated he did not desire to make a statement of allocution.

Counsel Pusich indicated there were several hundred pages of medical records for the Three (3) Judge Panel to review and suggested the Court recess to review said documents and reconvene for closing arguments; the Panel so concurred.

In response to the Court, counsel Pusich stated the witnesses she would have called if she had been permitted.

Counsel Pusich moved to file a document entitled Defendant's Memorandum re: Sentencing; no objection by counsel for State;  
SO ORDERED.

Court recessed.

Subsequent to the Court's recess, the court reporter Denise Phipps commenced reporter.

Court noted the Court stood in recess approximately three (3) hours for the Panel to review exhibits and further noted the Court had questions as to some of said exhibits.

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/20/99

HON. JANET J.

BERRY

HON. MICHAEL

CHERRY

HON. MICHAEL

MEMEO

DEPT. NO. 1

M. Logan

(Clerk)

D. Cecere

D. Phipps

(Reporters)

**PENALTY HEARING - THREE JUDGE PANEL - CONTINUED**

Court made inquiries of counsel for Defendant and Defendant, to which they responded thereto.

Honorable Michael Cherry made inquiries of the Defendant, to which he responded thereto.

In response to the Court, Defendant stated he had not changed his position to present evidence nor make a statement of allocution.

Honorable Michael Cherry made inquiries of counsel Pusich, to which she responded thereto.

Court made finding the Defendant knowingly and voluntarily made a waiver of his rights to present mitigating evidence and further, knowingly and voluntarily made a waiver of his right to make a statement of allocution.

Closing arguments were presented by counsel Greco and counsel Pusich.

At 3:00 p.m., the Panel retired to deliberate, subject to the call of the Court.

At 5:00 p.m., the Panel returned to the courtroom.

Honorable Janet Berry read the Findings of Fact, Conclusions of Law rendered by the panel. The following verdict was rendered:

**VERDICT**

The Court, with the Defendant Terry Jess Dennis, having previously entered his plea of Guilty to First Degree Murder With the Use of a Deadly Weapon, and having found beyond a reasonable doubt, that three (3) aggravating circumstances exist in this case and that two (2) mitigating circumstances exist in this case, and finds the aggravating circumstances outweigh the mitigating circumstances found, therefore, by reason thereof, sets the penalty and sentence to be imposed upon the Defendant of First Degree Murder With the Use of a Deadly Weapon, at death. Counsel for State submitted orders for the Court to execute, to which said orders the Court amended by interlineation; respective counsel had no objection to said interlineation.

The panel signed and executed the Findings of Fact and Conclusions of Law, Death Penalty Verdict, Judgment of

CASE NO. CR99-0611.

STATE OF NEVADA VS. TERRY JESS DENNIS

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

7/20/99

**PENALTY HEARING - THREE JUDGE PANEL - CONTINUED**

HON. JANET J.

BERRY

HON. MICHAEL

CHERRY

HON. MICHAEL

MEMEO

DEPT. NO.1

M. Logan

(Clerk)

D. Cecere

D. Phipps

(Reporters)

Conviction, Warrant of Execution, Order of Committal and Order of Execution and set the execution date during the week of September 27, 1999.

Counsel Petty addressed the Court and stated he would submit an order to stay execution tomorrow.

Defendant remanded to the custody of the Sheriff.

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CASE NO. CR99-0611

STATE OF NEVADA VS. TERRY JESS DENNIS

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

4/16/99

ARRAIGNMENT

HON. JANET J.

BERRY

DEPT. NO. I

M. Logan

(Clerk)

N. Alexander

(Reporter)

Deputy D.A. Dan Greco represented the State.

Defendant present with counsel, Deputy P.D. Maizie Pusich and  
Deputy P.D. John Petty.

Probation Officer, Dana Uken, also present.

Court noted respective counsel had met in chambers yesterday  
afternoon and further noted respective counsel had stipulated to  
allow the Court to obtain the Defendant's medical records from the  
Washoe County Detention Facility.

Court ordered the following exhibits marked for identification only:

**Exhibit 1, 2 and 3**

**TRUE NAME: TERRY JESS DENNIS.** Defendant handed copy of  
the Information; waived formal reading; waived time in which to  
enter a plea and plead Guilty to **First Degree Murder With the  
Use of a Deadly Weapon** as charged in the Information.

Counsel Pusich informed the Court that the plea of Guilty had been  
entered absent negotiations.

Defendant was sworn.

Court made inquiries of the Defendant, to which he responded  
thereto.

In response to the Court, Defendant stated he did not desire the  
appointment of a doctor to perform a second psychiatric evaluation.  
In response to the Court, Defendant stated his understanding of  
mitigating factors in the above-entitled matter.

Counsel Pusich addressed the Court and stated the amount of time  
she expended on the above-entitled matter.

Court thoroughly interrogated the Defendant and informed him of  
his rights and further stated the possible penalties therefor.

Counsel Pusich stated any sentence which is imposed, a like  
consecutive term would also be imposed, due to the enhancement  
for the use of a deadly weapon.

Court noted respective counsel stipulated to the Court contacting  
Chief Justice Rose to obtain a time for the three (3) judge panel to  
convene and further noted the Court would be one (1) of the three  
(3) judges for the panel and that Chief Justice Rose would

7/19/99

9:00 a.m.

Sentencing - 3  
Judge Panel

000034

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

4/16/99

ARRAIGNMENT - CONTINUED

HON. JANET J.

BERRY

DEPT. NO. I

M. Logan

(Clerk)

N. Alexander

(Reporter)

appoint the other two (2) judges to preside over the penalty phase.  
Further discussion between Court and respective counsel as to the  
three (3) judge panel.

Court read the instruction defining Reasonable Doubt to the  
Defendant.

In response to the Court, Defendant stated he did not desire any  
additional time to discuss the above-entitled matter with his  
counsel.

In response to the Court, counsel Pusich stated all discovery she  
had received from the State.

Counsel for State addressed the Court addressed the Court and  
moved to amend the Information by interlineation; no objection by  
counsel Pusich; SO ORDERED.

Counsel for State stated elements of the charge he was prepared  
to prove at the time of trial and further, read the definition of the  
words "premeditation" and "deliberation" to the Defendant and  
made inquires of said Defendant.

In response to the Court, counsel for State stated the Defendant's  
blood alcohol level on the date of the interview was 0.11 or 0.12.

In response to the Court, Defendant stated he did understand the  
above-entitled matter would be automatically appealed to the  
Supreme Court.

Counsel Petty responded and stated that only if the death penalty  
was imposed, would the appeal be automatic.

Further discussion between Court and respective counsel as to the  
appellate process.

Counsel Petty requested a subsequent hearing on the issue of  
whether the Defendant waives his right to an appeal, if the death  
penalty was to be imposed.

In response to the Court, counsel Pusich stated there were many  
issues to raise on behalf of the Defendant, however, she was not  
authorized to do so.

CASE NO. CR99-0611

STATE OF NEVADA VS. TERRY JESS DENNIS

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

4/16/99

ARRAIGNMENT - CONTINUED

HON. JANET J.

BERRY

DEPT. NO. I

M. Logan  
(Clerk)

N. Alexander  
(Reporter)

Counsel for State provided the Guilty Plea Memorandum to the Court and indicated the State would be free to argue at the time of sentencing and further indicated he would be arguing for the imposition of death.

Court made finding that the Defendant freely, voluntarily and knowingly waives his rights, the Court finds the Defendant competent to enter a plea of Guilty and the Court accepts the plea of Guilty.

Respective counsel requested P.S.I. report.

COURT ORDERED: Matter continued for entry of judgment and imposition of sentence.

Defendant remanded to the custody of the Sheriff.

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FILED

1 Case No CR99-0611

2 Dept. No. 1

99 MAR 29 P3:35

AMY HARVEY, CLERK

BY  DEPUTY

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8 STATE OF NEVADA,

9 Plaintiff

10 v.

STIPULATION REGARDING ARRAIGNMENT

11 TERRY JESS DENNIS,

12 Defendant

13 \_\_\_\_\_/

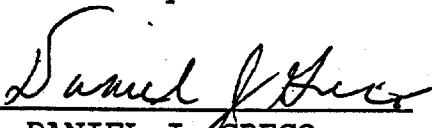
14 COMES NOW STATE OF NEVADA, by and through Washoe County  
15 District Attorney RICHARD A. GAMMICK, and Deputy DANIEL GRECO,  
16 and TERRY JESS DENNIS, by and through the Washoe County Public  
17 Defender, MICHAEL R. SPECCHIO, and Chief Deputy MAIZIE W.  
18 PUSICH, and Deputy RICHARD A. MOLEZZO, and hereby stipulate,  
19 the arraignment in the case currently numbered RJC 87,670,  
20 which would have been heard in District Court during the first  
21 week of April, should be heard on April 16, 1999, at 9 a.m.

22 The State has filed a Notice reserving the right to seek  
23 the death penalty in this case. With the brief delay  
24 accomplished by this Stipulation, it is anticipated the State  
25 will know at the time of arraignment whether a notice will be  
26 filed. The defendant accepts the delay, and would prefer to

1 know whether notice is being filed, before he enters a plea in  
2 District Court.

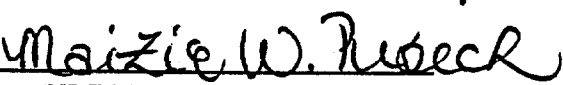
3  
4 Dated this 24<sup>th</sup> day of March, 1999.

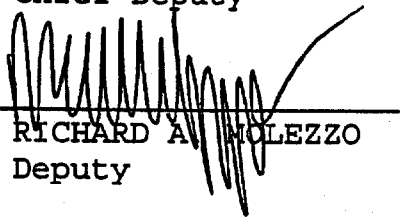
5 RICHARD A. GAMMICK  
6 Washoe County District Attorney

7 By   
8 DANIEL J. GRECO  
9 Deputy District Attorney

10 Dated this 24<sup>th</sup> day of March, 1999.

11 MICHAEL R. SPECCHIO  
12 Washoe County Public Defender

13 By   
14 MAIZIE W. PUSICH  
15 Chief Deputy

16 By   
17 RICHARD A. MOLEZZO  
18 Deputy  
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1 Case No. CR99-0611

2 Dept. No. 1

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7

IN AND FOR THE COUNTY OF WASHOE

8

STATE OF NEVADA,

9

Plaintiff

10

V.

DEFENDANT'S ACKNOWLEDGMENT  
REGARDING ARRAIGNMENT

11

TERRY JESS DENNIS,

12

Defendant

13

14

15 I, TERRY JESS DENNIS, acknowledge that my counsel has  
16 advised me she and the State wish to schedule the District  
17 Court arraignment in my case for April 16, 1999, at 9 a.m. I  
18 further acknowledge that I have been provided a copy of the  
19 stipulation regarding arraignment, and have had an opportunity  
20 to review it with my counsel.

21 I agree to having my arraignment heard on April 16, 1999,  
22 and understand that by signing this document I cannot later

23 ///

24 ///

25 ///


26 ///

complain that I was prejudiced by not being arraigned within 15  
days of the date of preliminary hearing.

DATED this 24<sup>th</sup> day of March, 1999.

  
TERRY JESS DENNIS

Defendant's signature witnessed by MAIZIE W. PUSICH.

  
MAIZIE W. PUSICH  
Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document addressed to:

ROGER WHOMES  
Deputy District Attorney

DATED this 29th day of March, 1999.

Patty K. Helwick  
PATTY K. HELWICK

CA # 176802

Team DV3

Case No. CR99-0611

Dept. No. 1

FILED

'99 APR -2 AB:29

APPROVED  
BY [Signature]  
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE.

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

REQUEST, AGREEMENT AND  
ORDER FOR PRE-TRIAL  
RECIPROCAL DISCOVERY

Jerry Jess Dennis

Defendant.

DEFENDANT'S REQUEST FOR DISCOVERY

Pursuant to NRS 174.087, 174.089, 174.235 to 174.295,  
inclusive, the defendant requests all written or recorded  
statements or confessions made by the defendant, any written or  
recorded statements made by a witness or witnesses the State  
intends to call in its case-in-chief, or any reports of  
statements or confessions, or copies thereof, results or reports  
of physical or mental examinations, scientific tests or  
scientific experiments, or copies thereof, that are within the  
possession, custody or control of the State, the existence which  
is known, or with the exercise of due diligence may become known  
to the prosecuting attorney; and books, papers, documents or

000042

1 tangible objects that the State intends to introduce in its case-  
2 in-chief and which is in the possession, custody or control of  
3 the State, the existence which is known, or with the exercise of  
4 due diligence may become known to the prosecuting attorney.

5 STATE'S REQUEST FOR DISCOVERY

6 Pursuant to NRS 174.087, 174.089, 174.235 to 174.295,  
7 inclusive, the State requests any written or recorded statements  
8 made by a witness or witnesses the defendant intends to call in  
9 his or her case-in-chief, or copies thereof, results or reports  
10 of physical or mental examinations, scientific tests or  
11 scientific experiments, or copies thereof, that are within the  
12 possession, custody or control of the defendant, the existence  
13 which is known, or with the exercise of due diligence may become  
14 known to the defendant; and books, papers, documents or tangible  
15 objects that the defendant intends to introduce in his or her  
16 case-in-chief and which is in the possession, custody or control  
17 of the defendant, the existence which is known, or with the  
18 exercise of due diligence may become known to the defendant.

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Case No. CR99-0611

Dept. No. 1

FILED

APR 2 1999  
AMY HARVEY, Clerk

By [Signature]  
Deputy Clerk

RECEIVED  
99 APR -2 AM 10:12  
AMY HARVEY, CLERK  
BY \_\_\_\_\_  
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE  
STATE OF NEVADA,

Plaintiff

v.

ORDER REGARDING ARRAIGNMENT

TERRY JESS DENNIS,

Defendant

\_\_\_\_\_  
This Court having considered the stipulation of counsel,  
requesting arraignment on April 16, 1999, and the Defendant's  
agreement thereto, and good cause appearing,

IT IS HEREBY ORDERED, TERRY JESS DENNIS will be arraigned  
on April 16, 1999, at 9 a.m.

DATED this 29<sup>th</sup> day of March, 1999.

[Signature]  
DISTRICT JUDGE

1 CODE 4292  
2 Richard A. Gammick  
3 #001510  
4 P.O. Box 30083  
5 Reno, NV 89502-3083  
6 (775) 328-3200  
7 Attorney for Plaintiff

FILED

7/20/99  
AMY HARVEY, Clerk

By Wm Jop Deputy Clerk

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
9 IN AND FOR THE COUNTY OF WASHOE.

10 \* \* \*

11 THE STATE OF NEVADA,

12 Plaintiff,

13 v.

Case No. CR99-0611

14 TERRY JESS DENNIS,

Dept. No. 1

15 Defendant.  
16 \_\_\_\_\_/

17 WARRANT OF EXECUTION

18 A JUDGMENT OF DEATH was entered on the 20<sup>th</sup> day of  
19 July, 1999, against the above-named defendant, TERRY  
20 JESS DENNIS, as a result of his plea of guilty to Count I, FIRST  
21 DEGREE MURDER WITH THE USE OF A DEADLY WEAPON.

22 A panel of three judges, with the Honorable JANET BERRY  
23 MICHAEL CHERRY and MICHAEL MEMEO, presiding, after the  
24 defendant's plea of guilty to the crime of Count I, MURDER OF THE  
25 FIRST DEGREE WITH THE USE OF A FIREARM, in violation of NRS  
26 200.010 and 200.030, conducted a penalty hearing beginning on  
July 19, 1999. The same impaneled district judges then proceeded  
to hear evidence and deliberated on the punishment to be imposed

000046

1 as provided by NRS 175.552 and 175.554. Thereafter, the same  
2 panel returned with the sentence that the defendant should be  
3 punished by Death, and found beyond a reasonable doubt that there  
4 were aggravating circumstances connected with the commission of  
5 said crime, as follows:

6 *Wuep* 1. The defendant subjected the victim of the murder,  
7 Ilona Strauanis, to nonconsensual sexual penetration, as defined  
8 in NRS 200.033(13), immediately before, during or immediately  
9 after the commission of the murder, to wit, the defendant engaged  
10 in anal intercourse with the victim shortly before and/or shortly  
11 after he killed her.

12 *QD Wue* 2. The defendant has been previously convicted of a  
13 felony offense involving the use or threat of violence to the  
14 person of another, to wit, in 1979 the defendant was convicted of  
15 felony Assault in the Second Degree in Snohomish County Superior  
16 Court, Washington.

17 *Wue* 3. The defendant has been previously convicted of a  
18 felony offense involving the use or threat of violence to the  
19 person of another, to wit, in 1984 the defendant was convicted of  
20 felony Assault in the Second Degree in Snohomish County Superior  
21 Court, Washington.

22 *Wue* 4. The defendant has been previously convicted of a  
23 felony offense involving the use or threat of violence to the  
24 person or another, to wit, in 1984 the defendant was convicted of  
25 felony Second Degree Arson in Snohomish County Superior Court,  
26 Washington.

1 That on or about the 20<sup>th</sup> day of July, 1999, the panel  
2 unanimously found, beyond a reasonable doubt, that there were ~~no~~ <sup>Two</sup>  
3 mitigating circumstances. Further, the aggravating circumstances  
4 found outweigh any mitigating evidence and said findings have  
5 been entered in the record. The court at this time, having  
6 determined that no legal reason exists against the execution of  
7 the Judgment.

8 IT IS HEREBY ORDERED that the County Clerk of the  
9 County of Washoe, State of Nevada, shall forthwith, execute, in  
10 triplicate, under the Seal of the Court, certified copies of the  
11 Warrant of Execution, the Judgment of Conviction, and of the  
12 entry thereof in the Minutes of the Court. The original of the  
13 triplicate copies of the Judgment of Conviction, Warrant of  
14 Execution, and entry thereof in the Minutes of the Court, shall  
15 be filed in the Office of the County Clerk, and two of the  
16 triplicate copies shall be immediately delivered by the Clerk to  
17 the Sheriff of Washoe County, State of Nevada.

18 IT IS FURTHER ORDERED that one of the triplicate copies  
19 be delivered by the Sheriff to the Director of the Department of  
20 Prisons or to such person as the Director shall designate. The  
21 Sheriff is hereby directed to take charge of the said defendant,  
22 TERRY JESS DENNIS, and transport and deliver the prisoner,  
23 forthwith, to the Director of the Department of Prisons at the  
24 Nevada State Prison located at or near Carson City, State of  
25 Nevada, and said prisoner, TERRY JESS DENNIS, is to be  
26 surrendered to the custody of the said Director of the Department

1 of Prisons or to such authorized person so designated by the  
2 Director of the Department of Prison, for the imprisonment and  
3 execution of the said defendant, TERRY JESS DENNIS, in accordance  
4 with the provisions of this Warrant of Execution.

5 IT IS FURTHER ORDERED that in connection with the above  
6 facts and pursuant to the provisions of NRS 176.345 and 176.355,  
7 the Director of the Department of Prisons, or such persons as  
8 shall by him be designated, shall carry out said Judgment and  
9 Sentence by executing the said TERRY JESS DENNIS by injection of  
10 a lethal drug, within the limits of the State Prison located at  
11 or near Carson City, State of Nevada, during the week commencing  
12 on Monday, the 27<sup>th</sup> day of September, 1999, in the  
13 presence of the Director of the Department of Prisons, not less  
14 than six nor more than nine reputable citizens over the age of  
15 twenty-one years, to be selected by the said Director of the  
16 Department of Prisons, and a competent physician, but no other  
17 persons shall be present at said execution.

18  
19 Dated this 20 day of July, 1999.

20  
21 Janet J. Berry  
22 JANET BERRY  
23 DISTRICT JUDGE

24 Michael Cherry  
25 MICHAEL CHERRY  
26 DISTRICT JUDGE

Michael Memeo  
MICHAEL MEMEO  
DISTRICT JUDGE

1 CODE 3370  
2 Richard A. Gammick  
3 #001510  
4 P.O. Box 30083  
5 Reno, NV 89502-3083  
6 (775) 328-3200  
7 Attorney for Plaintiff

FILED

7/20/99  
AMY HARVEY, Clerk

By Imper  
Deputy Clerk

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
9 IN AND FOR THE COUNTY OF WASHOE.

10 \* \* \*

11 THE STATE OF NEVADA,

12 Plaintiff,

13 v.

Case No. CR99-0611

14 TERRY JESS DENNIS,

Dept. No. 1

15 Defendant.  
16 \_\_\_\_\_/

17 ORDER OF COMMITTAL

18 TO THE SHERIFF OF WASHOE COUNTY, AND THE WARDEN OR OFFICERS IN  
19 CHARGE OF THE STATE PRISON OF THE STATE OF NEVADA,

20 GREETINGS:

21 WHEREAS, TERRY JESS DENNIS, having entered a plea of guilty to  
22 Count I, FIRST DEGREE MURDER WITH THE USE OF A DEADLY WEAPON, and  
23 judgment having been pronounced against him, that he be punished  
24 by the imposition of the Death Penalty by the administration of  
25 an injection of a lethal drug or combination of drugs.

26 All of which appears of record in the office of the  
Clerk of said Court and a certified copy of the Judgment being  
attached hereto and made a part hereof.

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Now this is to command you, the said sheriff, to safely deliver the said TERRY JESS DENNIS, into the custody of the said Warden or his duly authorized representative, when requested to do so,

and this is to command you, the said Warden or your duly authorized deputy, to receive from the said Sheriff, the said TERRY JESS DENNIS, to be sentenced as aforesaid, and that the said TERRY JESS DENNIS be put to death by an injection of a lethal drug or combination of drugs.

And these presents shall be your authority to do so.

HEREIN FAIL NOT.

WITNESS, Honorable JANET BERRY, Judge of the said District Court at the Courthouse, in the County of Washoe, this 20<sup>th</sup> day of July, 1999.

WITNESS, Honorable MICHAEL CHERRY, Judge of the said District Court at the Courthouse, in the County of Washoe, this 20<sup>th</sup> day of July, 1999.

WITNESS, Honorable MICHAEL MEMEO, Judge of the said District Court at the Courthouse, in the County of Washoe, this 30<sup>th</sup> day of July, 1999.

Witness my hand and the Seal of  
said Court, the day and year  
last above written.

Clerk

1 CODE 3370  
2 Richard A. Gammick  
3 #001510  
4 P.O. Box 30083  
5 Reno, NV 89502-3083  
6 (775) 328-3200  
7 Attorney for Plaintiff

FILED

7/20/99  
AMY HARVEY, Clerk

By [Signature] Deputy Clerk

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
9 IN AND FOR THE COUNTY OF WASHOE.

10 \* \* \*

11 THE STATE OF NEVADA,

12 Plaintiff,

13 v.

Case No. CR99-0611

14 TERRY JESS DENNIS,

Dept. No. 1

15 Defendant.

16 ORDER OF EXECUTION

17 A JUDGEMENT OF DEATH having been entered on the 20th  
18 day of July, 1999, against the above named defendant, TERRY JESS  
19 DENNIS, as a result of his plea of guilty of Count I, FIRST  
20 DEGREE MURDER WITH THE USE OF A DEADLY WEAPON; and

21 WHEREAS, this Court has made inquiry into the facts and  
22 found no legal reasons against the execution of the judgment of  
23 Death,

24 IT IS HEREBY ORDERED that the Director of the  
25 Department of Prisons shall execute the Judgment of Death by an  
26 injection of a lethal drug, within the limits of the State Prison  
located at or near Carson City, State of Nevada, during the week

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1 commencing on Monday, the 27<sup>th</sup> day of September, 1999,  
2 in the presence of the Director of the Department of Prisons, not  
3 less than six nor more than nine reputable citizens over the age  
4 of twenty-one years, to be selected by the said Director of  
5 Prisons, and a competent physician, but no other person shall be  
6 present at said execution.

7 Dated this 20<sup>th</sup> day of July, 1999.

9  
10 Janet G. Berry  
JANET BERRY  
DISTRICT JUDGE

11 Michael Cherry  
MICHAEL CHERRY  
DISTRICT JUDGE

12  
13 Michael Memeo  
MICHAEL MEMEO  
DISTRICT JUDGE  
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99 JUL 21 P3:05

1 CODE 3370  
2 WASHOE COUNTY PUBLIC DEFENDER  
3 JOHN REESE PETTY, State Bar No. 18 MY HARVEY, CLERK  
4 ONE S. SIERRA STREET  
5 RENO, NEVADA 89501  
6 (775) 328-3475  
7 Attorney for Defendant.

BY DEPUTY

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
9 IN AND FOR THE COUNTY OF WASHOE

10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

Case No. CR99-0611

13 TERRY JESS DENNIS,

Dept. No. 1

14 Defendant.

15 ORDER STAYING EXECUTION PENDING DIRECT APPEAL

16 Defendant, TERRY JESS DENNIS, having been convicted of  
17 murder in the First Degree and having been sentenced to death  
18 resulting in an automatic appeal to the Nevada Supreme Court  
19 pursuant to NRS 177.055, and good cause appearing; now  
20 therefore:

21 IT IS HEREBY ORDERED that the imposition of the death  
22 penalty previously ordered herein be, and hereby is, stayed  
23 pending resolution of the direct appeal in this matter.

24 DATED this 21st day of July, 1999.

25 James G. Barry  
26 DISTRICT JUDGE

000054

ORIGINAL

1 CODE 2515  
2 WASHOE COUNTY PUBLIC DEFENDER  
3 JOHN REESE PETTY, State Bar No. 10 '99  
4 ONE S. SIERRA STREET  
5 RENO, NEVADA 89501  
6 (775) 328-3475  
7 Attorney for Defendant.

FILED  
AUG -3 P2:00  
Ar. [Signature]  
CLERK  
BY [Signature]  
DEPUTY

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
9 IN AND FOR THE COUNTY OF WASHOE

10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

Case No. CR99-0611

13 TERRY JESS DENNIS,

Dept. No. 1

14 Defendant.

15 NOTICE OF APPEAL

16 NOTICE IS HEREBY GIVEN that TERRY JESS DENNIS, the  
17 defendant above named, hereby appeals to the Supreme Court of  
18 Nevada from the judgment entered in this action on July 20, 1999.

19 This is a death penalty appeal governed by Supreme  
20 Court Rule 250. See NRAP 3B.

21 DATED this 3rd day of August, 1999.

22 MICHAEL R. SPECCHIO  
23 Washoe County Public Defender

24 By:

25 [Signature]  
26 JOHN REESE PETTY  
Chief Deputy

000055



ORIGINAL

1 CODE 1310  
2 WASHOE COUNTY PUBLIC DEFENDER  
3 JOHN REESE PETTY, State Bar No. 106-31200  
4 ONE S. SIERRA STREET  
5 RENO, NEVADA 89501  
6 (775) 328-3475  
7 Attorney for Defendant.

FILED  
99 AUG -31 P2:00  
AM. [Signature]  
BY [Signature] DEPUTY

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
9 IN AND FOR THE COUNTY OF WASHOE

10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

Case No. CR99-0611

13 TERRY JESS DENNIS,

Dept. No. 1

14 Defendant.  
15 \_\_\_\_\_/

16 CASE APPEAL STATEMENT

17 1. Appellant, TERRY JESS DENNIS, hereby files this  
18 Case Appeal Statement;

19 2. This appeal is from the judgment of conviction and  
20 warrant of execution entered on July 20, 199, by the Honorable  
21 Janet Berry, the Honorable Michael Cherry, and the Honorable  
22 Michael Memeo, district judges;

23 3. The parties below consisted of (a) THE STATE OF  
24 NEVADA, Plaintiff; and (b) TERRY JESS DENNIS, defendant;

25 4. The parties herein consist of (a) TERRY JESS  
26 DENNIS, Appellant; and (b) THE STATE OF NEVADA, Respondent;

000057

1                   5. Counsel on appeal are:

2           MICHAEL R. SPECCHIO  
3           Washoe County Public  
          Defender

          RICHARD A. GAMMICK  
          Washoe County District  
          Attorney

4           JOHN REESE PETTY  
5           Chief Deputy

          GARY H. HATLESTAD  
          Chief Deputy

6           P.O. Box 30083  
7           Reno, Nevada 89520

          P.O. Box 11130  
          Reno, Nevada 89520

8           ATTORNEYS FOR APPELLANT

          ATTORNEYS FOR RESPONDENT

9           6. Appellant, TERRY JESS DENNIS, was represented by  
10          the Washoe County Public Defender in the district court;

11          7. Appellant, TERRY JESS DENNIS, is represented by the  
12          Washoe County Public Defender in this appeal;

13          8. Not applicable; and

14          9. By an Information that was filed in this case  
15          Defendant TERRY JESS DENNIS was charged with one (1) count of  
16          murder, a felony. Appellant, TERRY JESS DENNIS entered a guilty  
17          plea to the single count. On July 20, 1999, a three-judge panel  
18          sentenced TERRY JESS DENNIS to death.

19          This is a death penalty appeal which is subject to Supreme  
20          Court Rule 250. See NRAP 3B

21                 DATED this 3<sup>rd</sup> day of August, 1999.

22                         MICHAEL R. SPECCHIO  
                          Washoe County Public defender

23                         By: 

24                         JOHN REESE PETTY  
25                         Chief Deputy  
26

1  
2 AFFIDAVIT OF MAILING

3 STATE OF NEVADA )

) :ss

4 COUNTY OF WASHOE )

5 I, Joanne Parker, do hereby affirm under penalty of perjury  
6 that the assertions of this Affidavit are true:

7 That Affiant is and was when the herein described mailing  
8 took place, a citizen of the United States, over twenty-one  
9 years of age, and not a party to, nor interested in, the within  
10 action; that on the 3<sup>rd</sup> day of August, 1999, Affiant served a  
11 copy of the attached CASE APPEAL STATEMENT, by placing said copy  
12 in an envelope addressed to the following:

13  
14 RICHARD A. GAMMICK  
15 Washoe County District Attorney  
16 Washoe County Courthouse  
17 Reno, Nevada

and JANETTE M. BLOOM  
Clerk of the Supreme Court  
Supreme Court Building  
Capitol Complex  
Carson City NV 89710

18 FRANKIE SUE DEL PAPA  
19 Attorney General  
20 State of Nevada  
21 100 No Carson Street  
22 Carson City, NV 89701

and TERRY J. DENNIS # 62144  
N.N.C.C., P.O.Box 7000  
Carson City, NV 89702

23 which envelopes were sealed and deposited in the Washoe County  
24 Inter-Office and United States mail at Reno, Nevada, and that  
25 there is regular communication by said Inter-Office and United  
26 States mail between the placed of mailing and the places so  
addressed.

  
JOANNE PARKER

SUBSCRIBED and SWORN to before me this 3 day of  
August, 1999.

  
NOTARY PUBLIC



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ORIGINAL

FILED

1 CODE 1075  
2 MAIZIE W. PUSICH, Chief Deputy, #2808  
3 JOHN REESE PETTY, Chief Deputy, #0010  
4 Washoe County Public Defender  
5 1 South Sierra Street  
6 Reno, NV 89501  
7 (775)328-3464  
8 Attorneys for TERRY JESS DENNIS

'99 AUG -3 10:16

ANN HARVEY, CLERK  
*Amachi*

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE

8 STATE OF NEVADA,

9 Plaintiff

10 v.

Case No. Cr99-0611

11 TERRY JESS DENNIS,

Dept. No. 1

12 Defendant.  
13 \_\_\_\_\_/

14 AFFIDAVIT OF COMPLIANCE WITH SCR 250(3)(b)

15 State of Nevada )  
16 ) ss.  
County of Washoe )

17 I, MAIZIE W. PUSICH, having been duly sworn, hereby depose  
18 and state, under penalty of perjury, the following to be true.

- 19 1. YOUR AFFIANT is a licensed Nevada attorney, in good  
20 standing, and appointed on behalf of TERRY JESS DENNIS  
21 in this Cr99-0611.  
22 2. YOUR AFFIANT has maintained, and continues to maintain  
23 contemporaneous records of all work performed while  
24 serving as trial counsel, including time records,  
25 notes of communications with Mr. DENNIS, expert  
26

1 witness reports, witness statements, investigations,  
2 and the rationale for strategic decisions.

3 3. TERRY JESS DENNIS was sentenced on July 20, 1999.

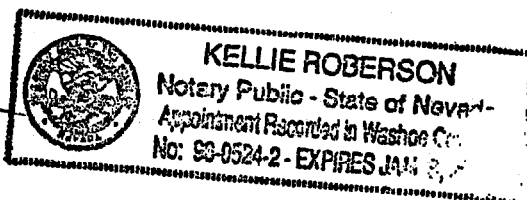
4 Consequently, this affidavit is timely.

5 Dated this 3<sup>rd</sup> day of August, 1999.

6  
7  
8 Maizie W. Pusich  
MAIZIE W. PUSICH

9 Subscribed and sworn to before me this 3<sup>rd</sup> day of  
10 August, 1999.

11  
12  
13 [Signature]  
14 NOTARY PUBLIC



15 Respectfully submitted:

16 MICHAEL R. SPECCHIO  
17 Washoe County Public Defender

18 By Maizie W. Pusich  
19 MAIZIE W. PUSICH  
20 Chief Deputy

21 By [Signature]  
22 JOHN R. PETTY  
23 Chief Deputy  
24  
25  
26

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, and that on this date, I deposited for mailing via interoffice mail, a copy of the foregoing

AFFIDAVIT OF COMPLIANCE WITH SCR 250(3)(b)

Addressed to:

DAN GRECO, Deputy District Attorney.

DATED this 3<sup>rd</sup> day of August, 1999.



VALERIE EVANS

FILED

'99 AUG -4 P 3:01

AMY HARVEY, CLERK

BY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

TERRY JAMES DENNIS,

Plaintiff,

VS.

CASE NO. CR99-0611

THE STATE OF NEVADA,

DEPT. NO. 1

Defendant.

TRANSMITTAL CERTIFICATE

I hereby certify that the enclosed documents are certified copies of pleadings, transcripts and documentary evidence. This record was mailed to the Nevada State Supreme Court on August 5, 1999, in accordance with Nevada Rules of Appellate Procedure governing capitol cases and SCR 250(IV)(E).

Dated, August 4, 1999.

AMY HARVEY, County Clerk

By,

Ruth Morgan, Deputy

000063



# In the Supreme Court of the State of Nevada

ORIGINAL

FILED

AUG 13 1999

INDICATE FULL CAPTION:

TERRY JESS DENNIS,

Appellant(s),

vs.

THE STATE OF NEVADA,

Respondent(s).

No. 34632

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

## DOCKETING STATEMENT

### CRIMINAL APPEALS

(Including pretrial and post-conviction habeas corpus, and petitions for post-conviction relief)

## GENERAL INFORMATION

1. Judicial District Second County Washoe  
Judge Hon. Janet Berry District Ct. Docket No. CR99-0611

2. If the defendant was given a sentence,  
(a) what is the sentence? The death penalty

(b) has the sentence been stayed pending appeal? Yes  
(c) was defendant admitted to bail pending appeal? No

3. Was trial or post-conviction counsel appointed XX or retained.....?

4. Attorney filing this docketing statement:

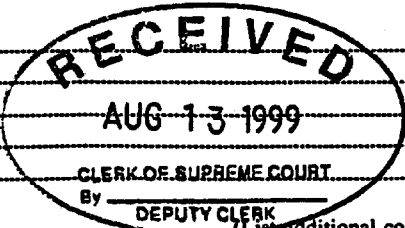
Attorney JOHN REESE PETTY Telephone (775) 328-3475  
Firm WASHOE COUNTY PUBLIC DEFENDER  
Address Post Office Box 30083  
Reno, Nevada 89520-3083  
Client(s) TERRY JESS DENNIS

If this is a joint statement by multiple appellants, add the names and addresses of other counsel on an additional sheet accompanied by a certification that they concur in the filing of this statement.

5. Attorney(s) representing respondent(s):

Attorney GARY H. HATLESTAD Telephone (775) 328-3222  
Firm WASHOE COUNTY DISTRICT ATTORNEY  
Address Post Office Box 30083  
Reno, Nevada 89520-3083  
Client(s) THE STATE OF NEVADA

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Client(s) \_\_\_\_\_



CLERK OF SUPREME COURT  
By DEPUTY CLERK

(For additional counsel on separate sheet if necessary)

000064

00-075010

6. Nature of disposition below:

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☒ Judgment upon guilty plea
- ☐ Grant of pretrial motion to dismiss
- ☐ Parole/Probation revocation
- ☐ Motion for new trial
  - ☐ grant    ☐ denial
- ☐ Motion to withdraw guilty plea
  - ☐ grant    ☐ denial

- ☐ Grant of pretrial habeas
- ☐ Grant of motion to suppress evidence
- ☐ Post-conviction relief (NRS ch. 177)
  - ☐ grant    ☐ denial
- ☐ Post-conviction habeas (NRS ch. 34)
  - ☐ grant    ☐ denial
- ☐ Other disposition (specify)\_\_\_\_\_

7. Does this appeal raise issues concerning any of the following:

- ☒ death sentence
- ☐ life sentence
- ☐ juvenile offender
- ☐ pretrial proceedings

8. Expedited appeals: The court may decide to expedite the appellate process in this matter. Are you in favor of proceeding in such manner?

Yes ☒ No \_\_\_\_\_

9. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal (e.g., separate appeals by co-defendants, appeal after post-conviction proceedings):

10. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., habeas corpus proceedings in state or federal court, bifurcated proceedings against co-defendants):

11. Nature of action. Briefly describe the nature of the action and the result below:

Appellant pled guilty to murder in the first degree and was sentenced to death by a three-judge panel.

12. No Merit Appeal. If appellant was the defendant below, does counsel intend to file an affidavit of no merit appeal pursuant to Anders v. California, 386 U.S. 738 (1967) and Sanchez v. State, 85 Nev. 95, 450 P.2d 793 (1969)?

Yes \_\_\_\_\_ No \_\_\_\_\_

n/a

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13. Issues on appeal. State concisely the principal issue(s) in this appeal:

Whether the imposition of the death penalty in this case was excessive and, as such, must be set aside.

14. Constitutional issues. If this appeal challenges the constitutionality of a statute, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

N/A...XX...Yes.....No.....

If not, explain.....

15. Issues of first-impression or of public interest. Does this appeal present a substantial legal issue of first-impression in this jurisdiction or one affecting an important public interest?

First-impression: Yes.....No...XX...

Public interest: Yes...XX...No.....

16. Length of trial. If this action proceeded to trial in the district court, how many days did the trial last?

Two (sentencing hearing)  
.....days

17. Oral argument. Would you object to submission of this appeal for disposition without oral argument?

Yes...XX...No.....

#### TIMELINESS OF NOTICE OF APPEAL

18. Date district court announced decision, sentence or order appealed from..... July 20, 1999 .....

19. Date of entry of written judgment or order appeal from..... July 20, 1999 .....

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

000066

20. If this appeal is from an order granting or denying a petition for a writ of ~~habeas~~ corpus, indicate the date written notice of entry of judgment or order was served.....

(a) Was service by delivery or by mail.....(specify).

21. If the time for filing the notice of appeal was tolled by a post-judgment motion,

(a) Specify the type of motion, and the date of filing of the motion:

Arrest judgment..... Date filed.....

New trial..... Date filed.....

(newly discovered evidence)

New trial..... Date filed.....

(other grounds)

(b) Date of entry of written order resolving motion.....

22. Date notice of appeal filed August 3, 1999.

23. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(b), NRS 34.710, NRS 34.815, NRS 177.015(2), or other.....

NRAP 4(b)

### SUBSTANTIVE APPEALABILITY

24. Specify statute, rule or other authority which grants this court jurisdiction to review the judgment or order appealed from:

NRS 177.015(1)(b).....

NRS 177.015(2).....

NRS 177.055.....

NRS 177.385.....

NRS 34.710(3).....

NRS 34.710(4).....

NRS 34.815

Other (specify) NRS 177.015(3) and NRS 177.055

### VERIFICATION

I certify that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief.

TERRY JESS DENNIS

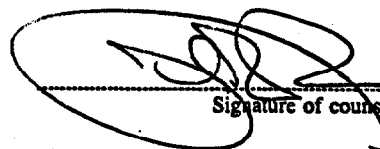
Name of appellant

August 11, 1999

Date

JOHN REESE PETTY

Name of counsel of record



Signature of counsel of record

000067

**CERTIFICATE OF SERVICE**

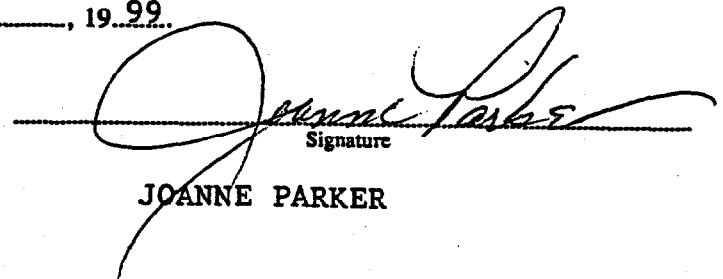
I certify that on the 11<sup>th</sup> day of August, 1999, I served a copy of this completed docketing statement upon all counsel of record:

☒ by personally serving it upon him/her/~~xxx~~ via inter-office mail

☐ by mailing it by first class mail with sufficient postage prepaid to the following address(es):

GARY HATLESTAD  
Deputy District Attorney

Dated this 11<sup>th</sup> day of August, 1999.

  
Signature  
JOANNE PARKER

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34632

**FILED**

AUG 24 1999

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
DEPUTY CLERK

ORDER SETTING BRIEFING SCHEDULE

This is a direct appeal from a judgment of conviction and a sentence of death. The parties are directed to adhere to the following briefing schedule. Appellant shall have to and including October 15, 1999, within which to file the opening brief. Respondent shall file the answering brief on or before December 14, 1999. Appellant shall have to and including January 28, 2000, within which to file the reply brief. See SCR 250(6)(d). We do not expect requests for extensions of this briefing schedule absent extreme and unforeseeable circumstances.

It is so ORDERED.

*Rau* \_\_\_\_\_, C.J.

cc: Attorney General  
Washoe County District Attorney  
Washoe County Public Defender

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IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS,	)	Case No. 34632
	)	
Appellant,	)	
	)	
vs.	)	
	)	
THE STATE OF NEVADA,	)	
	)	
Respondent.	)	

---

AFFIDAVIT

STATE OF NEVADA	)	
	:	ss.
COUNTY OF WASHOE	)	

JOHN REESE PETTY, under penalty of perjury, deposes and says:

1. That your affiant is counsel on appeal for Appellant;
2. That Appellant's Opening Brief is due on October 15, 1999;
3. That the Opening Brief is almost completed but that on October 15, 1999 your affiant will be out of the state to attend an appellate practice seminar;
4. That your Affiant is presently the only Appellate Deputy in the Office of the Washoe County Public Defender;

1           5. That your Affiant was not able to work on the brief last  
2 weekend due to computer upgrading and spent the time preparing  
3 for two (2) oral arguments that were held on October 12, 1999;

4           6. That your Affiant's other duties as a Chief Deputy has  
5 also taken time from research and writing;

6           7. That Respondent has stipulated to the requested  
7 extension;

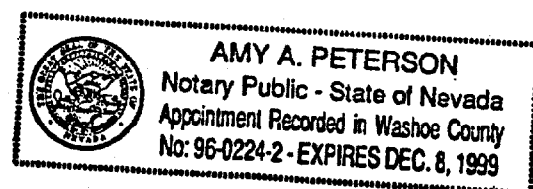
8           8. That this motion for an extension of time seeks an  
9 extension of only seven (7) days to October 22, 1999 but it is  
10 expected that the Opening Brief will be filed well before that  
11 date -- and further, that this extension request will not  
12 interfere with the present briefing schedule which requires the  
13 Reply Brief to be filed on January 28, 2000;

14           9. That this request for an extension of time is made in  
15 good faith and not for purposes of delay.

16  
17   
18 JOHN REESE PETTY

19           Subscribed and Sworn to before me this 15 day of  
20 October 1999.

21  
22   
23 NOTARY PUBLIC



000072

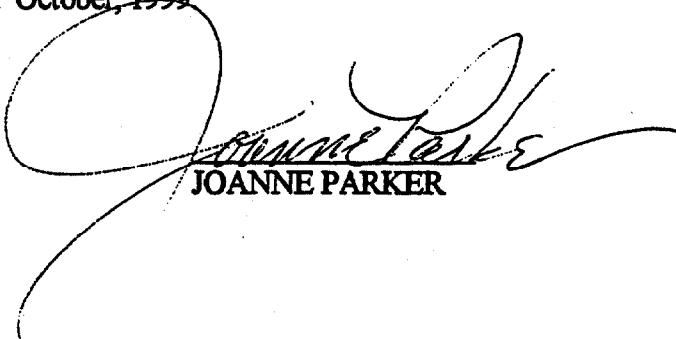
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document addressed to:

GARY HATLESTAD  
Deputy District Attorney

DATED this 15<sup>th</sup> day of October, 1999

  
JOANNE PARKER

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34632

**FILED**

**OCT 26 1999**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER GRANTING MOTION

Cause appearing, we grant appellant's motion for an extension of time. Appellant shall have seven (7) days from the date of this order within which to file and serve the opening brief and appendix. Thereafter, briefing shall proceed in accordance with SCR 250(6)(d).

It is so ORDERED.

*[Signature]*, C.J.

cc: Attorney General  
Washoe County District Attorney  
Washoe County Public Defender

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99-10501

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34632

**FILED**

FEB 10 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

ORDER SCHEDULING ORAL ARGUMENT

This is an appeal from a judgment of conviction of first degree murder and a sentence of death. This court has determined that oral argument will be of assistance in resolving the issues presented on appeal. Accordingly, the clerk of this court shall schedule this appeal for oral argument on March 29, 2000, at 2:30 p.m. in Carson City, Nevada, before the en banc court. The argument shall be limited to thirty (30) minutes.

It is so ORDERED.

*Rae*, C.J.

cc: Attorney General  
Washoe County District Attorney  
Washoe County Public Defender

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00-02129

## IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 34632

**FILED**

OCT 26 1999

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERKAppeal from A Judgment of Conviction  
Second Judicial District Court of the State of Nevada  
The Honorable Janet Berry, District JudgeAPPELLANT'S OPENING BRIEFMICHAEL R. SPECCHIO  
Washoe County Public DefenderJOHN REESE PETTY  
Chief DeputyP.O. Box 30083  
Reno, Nevada 89520

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ATTORNEYS FOR RESPONDENT

MAILED ON

10/20/99

OCT 21 1999

CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

000076

99-10502

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**LEGAL ISSUE PRESENTED**

**WHETHER THE IMPOSITION OF THE DEATH PENALTY IN THIS CASE -- WHERE IT WAS SOLEY PREDICATED UPON THREE (3) PRIOR FELONY AGGRAVATORS THAT WERE EACH SEVERAL YEARS OLD -- WAS EXCESSIVE GIVEN THE FACTS OF THE CASE AND THE CHARACTER OF THE DEFENDANT?**

**STATEMENT OF THE CASE**

This is an appeal from a judgment of conviction, following a plea of guilty to one count of murder with the use of a deadly weapon, a violation of NRS 200.030, NRS 200.030 and NRS 193.165, a felony, as charged in an Information filed on March 29, 1999. On July 20, 1999, Appellant, Terry Jess Dennis (hereinafter "Mr. Dennis"), was sentenced to death by lethal injection by a three-judge panel.<sup>1</sup> ROA Vol. 1 at 123-125 (Judgment); ROA Vol. 1 at 118-120 (Findings of Fact and Conclusions of Law); ROA Vol. 2 at 327-328 (Order of Execution); and ROA Vol. 2 at 331-334 (Warrant of Execution).<sup>2</sup> On July 21, 1999, Judge Berry filed an Order Staying Execution Pending Direct Appeal. ROA Vol. 2 at 399. Pursuant to NRS 177.055 this automatic appeal followed. Also, however, on August 3, 1999, a timely Notice of Appeal was filed in the district court. ROA Vol. 2 at 455-456.

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<sup>1</sup> Mr. Dennis was sentenced to death by the following panel: The Honorable Janet Berry, the Honorable Michael Cherry and the Honorable Michael Memeo, district judges.

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## STATEMENT OF THE FACTS

### Procedural Background

By an Information filed on March 29, 1999, the State charged Appellant, Terry Jess Dennis (hereinafter "Mr. Dennis"), with one count of first degree murder with the use of a deadly weapon. ROA Vol. 1 at 8-10. Specifically, the State alleged that on or about March 6th or 7th, 1999, Mr. Dennis "... did willfully, unlawfully, and with malice aforethought, deliberation, and premeditation, kill and murder ILONA STRAUMIS ... and further [Mr. Dennis] did use a deadly weapon in the commission of the crime, to wit, [Mr. Dennis] strangled the victim with the use of a belt in the commission of the offense ... ." *Id* at 8-9.

On April 14, 1999, the State filed its Notice of Intent to Seek Death Penalty Pursuant to NRS 200.033, NRS 175.552, and SCR 250(4)(c). ROA Vol. 1 at 20-24. In its notice the State alleged four (4) aggravating circumstances making Mr. Dennis death-eligible:

Evidence that the defendant subjected the victim of the murder, Ilona Straumanis, to nonconsensual [sic] sexual penetration, as defined in NRS 200.033(12), immediately before, during or immediately after the commission of the murder, to wit, the defendant engaged in anal intercourse with the victim shortly before and/or shortly after he killed her.

Evidence that the defendant has been previously convicted of a felony offense involving the use or threat of violence to the person of another, to wit, in 1979 the defendant was convicted of felony Assault in the Second Degree in Snohomish County Superior Court, Washington.

Evidence that the defendant has been previously convicted of a felony offense involving the use or threat of violence to the person of another, to wit, in 1984 the defendant was convicted of felony Assault in the Second Degree in Snohomish County Superior Court, Washington.

---

<sup>2</sup> "ROA" stands for the Record on Appeal as prepared by the appellate clerk of the Second Judicial District Court of the State of Nevada. Page references are to those as designated by the clerk.

1  
2 Evidence that the defendant has been previously convicted of  
3 a felony offense involving the use or threat of violence to the  
4 person of another, to wit, in 1984 the defendant was convicted of  
felony Second Degree Arson in Snohomish County Superior  
Court, Washington.

5 Id at 21-22.

6 Two days later, on April 16, 1999, the State filed a Guilty Plea Memorandum wherein  
7 Mr. Dennis, *inter alia*: (1) acknowledged his "desire to enter a plea of guilty" [ROA Vol. 1 at  
8 81]; (2) acknowledged his understanding "that the consequences of [his] plea of guilty are that  
9 [he] may be punished by death by lethal injection" [Id at 83]; and (3) acknowledged that the  
10 State, at sentencing, would "be free to argue for an appropriate sentence" and further, that the  
11 State would be arguing for "a sentence of death by lethal injection." Id.

12 On April 16, 1999, Mr. Dennis appeared before the Honorable Janet Berry to enter his  
13 plea of guilty to the murder count. ROA Vol. 1 25-80. Judge Berry conducted an extensive  
14 canvass of Mr. Dennis concerning his desire to enter a guilty plea in a situation where, as  
15 Judge Berry put it, "it doesn't appear ... that you're receiving any benefit whatsoever in  
16 exchange for your plea of guilty." Id at 45. Here, Mr. Dennis told the court:

17 Well, Your Honor, the way I see it is that, see, I've been to  
18 prison twice before.<sup>3</sup> And spending the rest of my life in prison  
19 to me is not living at all. It's existing.

20 And what I understand the penalties would be time wise,  
21 were I to receive less than a death sentence, still would amount  
22 to me as life. I mean, we're talking what, 20 years plus 20 on top  
23

24 <sup>3</sup> Earlier in the hearing Mr. Dennis had informed Judge Berry that in 1970 at the age of 14 he did two years in  
25 South Dakota for possession of marijuana. ROA Vol. 1 at 37. Then in 1979, on the first assault charge  
26 referenced in the State's death penalty notice, he was placed on a five year probationary period. Id. Finally,  
concerning the 1984 assault and arson charges (also set forth in the State's notice), he explained to the court that  
those two charges and the first assault charge were ordered to be served concurrently and that he did about two  
and one half years in a reformatory in Washington. There he was classified as medium security. Id at 37-38.

1 of that or 50 years, whatever. I'm 52 now. I don't anticipate  
2 being alive that much longer. And I certainly don't want to just  
3 waste away for the next, what, 25 years or whatever I've got left,  
4 doddering around in prison. *I just as soon get it over faster than  
that. And that's the long and short of it.*

5 Id. (footnote and italics added). At the conclusion of the canvas Judge Berry  
6 accepted Mr. Dennis' guilty plea and set the sentencing hearing to commence on  
7 July 19, 1999. Id at 78-79.

8 On July 20, 1999, the three-judge panel assigned to this case sentenced  
9 Mr. Dennis to death finding three of the four alleged aggravators<sup>4</sup> to have been  
10 established and finding two mitigating circumstances to exist.<sup>5</sup> The panel  
11 concluded that the mitigating circumstances did not outweigh the aggravating  
12 circumstances. ROA Vol. 1 at 118-120 (Findings of Fact and Conclusions of  
13 Law); ROA Vol. 1 at 121-122 (Death Penalty Verdict); and ROA Vol. 2 at 446.

14 Factual Background<sup>6</sup>

15 Robin Carothers works for the City of Reno as a public safety dispatcher. ROA Vol. 1  
16 at 134. In the late afternoon of March 9, 1999, she received a call from Mr. Dennis who  
17 wanted to report a dead body. Id. Mr. Dennis told Ms. Carothers that he needed "to talk to a  
18 homicide detective." Id at 136. In response to questions from Ms. Carothers, Mr. Dennis gave  
19 his location -- room S-3 of the Horseshoe Motel --, the fact that the victim had been dead for a  
20 couple of days, that he had killed her with his hands, that he did not have any weapons and that  
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25 <sup>4</sup> The panel found the three (3) prior convictions to have been established but rejected the alleged nonconsensual  
sexual penetration aggravator. ROA Vol. 1 at 118-119; ROA Vol. 2 at 445.

26 <sup>5</sup> The panel found that Mr. Dennis was intoxicated at the time of the killing and further that Mr. Dennis suffers  
from mental illness. ROA Vol. 2 at 445-446.

<sup>6</sup> The following is taken from the evidence presented to the three-judge panel on July 19th and 20th, 1999.

1 he was turning himself in. Id at 136-140. Ms. Carothers told Mr. Dennis that the first units  
2 should be there in a few minutes. With that the conversation ended. Id at 140-141.

3 Reno Police Detective James Burke arrived at the Horseshoe Motel at approximately  
4 4:15 p.m. Id at 156-157. There he met with Mr. Dennis. Id at 157. The detective asked Mr.  
5 Dennis if he had any weapons and Mr. Dennis responded that he had killed the victim with his  
6 hands. Id at 158. Thereafter Mr. Dennis was taken to the Reno Police Department for an  
7 interview. Id.<sup>7</sup>

8  
9 Later, while Mr. Dennis was being interviewed, Reno Police Detective Robert Bennett  
10 conducted a search of the motel room pursuant to a search warrant that he had obtained in  
11 conjunction with this case. Id at 146-147. The detective testified that when he entered the  
12 room there was "quite a bit of debris, bottles, empty food containers" about the place. Id at  
13 148. There were two beds in the room. One looked like it had been slept in and the other had  
14 "a blanket covering a lumpy form that turned out to be the deceased." Id. When the blanket  
15 was lifted, revealed was a white female lying on her stomach. There was a pillow under her  
16 pelvis and her legs were spread "about 90 degrees to each other." Id. At 148-149.<sup>8</sup> The  
17 detective also testified that there were no signs of forced entry to the room and that he had  
18 found a room receipt in the name of Terry Dennis. Id at 151. Additionally, Detective Bennett  
19 found a man's brown leather belt on the floor between the bed where the victim's body was  
20 lying and the nearest room wall. Id. Before being excused Judge Cherry asked the detective to  
21 tell him about the alcohol containers that were found in the room. Id at 155. Detective  
22  
23  
24

25 <sup>7</sup> The videotaped interview was played in open court and reported by the court reporters who were present.  
26 Nonetheless this Court is asked to conduct an independent viewing of the videotape so as to observe Mr. Dennis' behavior throughout the interview.

<sup>8</sup> Defense counsel stipulated that the victim was Iona Straumanis. ROA Vol. 1 at 150.

1 Bennett answered noting that there "were numerous empty containers that were vodka  
2 containers and beer containers." He testified that there were two empty one-liter bottles of  
3 vodka and several "empty beer containers" and "some mixers like orange juice." Id.

4  
5 Detective Burke and Detective Rafaquat interviewed Mr. Dennis at the police station. Id.  
6 at 167-168. Mr. Dennis told the detectives that he had come to Reno from Seattle in August,  
7 1995. Id. at 171. Mr. Dennis was not employed but lived on his disability payments. Id. at  
8 172.<sup>9</sup> Mr. Dennis received medications from the VA Hospital. Id. Mr. Dennis told the  
9 detectives that about a month earlier he had checked himself in at the VA Hospital because he  
10 was concerned about thoughts that he was having. The hospital held him for a week and let  
11 him out. Id. at 174. Thereafter Mr. Dennis was given his *Miranda* warnings. Id. at 177.

12  
13 Mr. Dennis told the detectives that he got a room at the Horseshoe Motel on the 3rd of  
14 March. Id. at 180. He was first given one room but was later moved to a different room  
15 because the motel staff indicated that the first room was a non-smoking room. Id. at 180-181.  
16 About a night later he met the victim. Id. at 181. Mr. Dennis said that he was on his way to the  
17 West Second Street Bar when he ran into her walking down Second Street. Id. at 181, 184. He  
18 said it was cold that night and so he gave her his coat to wear. They then went to the bar and  
19 then later back up to his room. Id. at 181-183. They stayed together drinking in the room for  
20 days. Id. at 189, 195, 204. As Mr. Dennis explained " [w]e stayed in the room. She stayed in  
21 the room, I went and got more booze. We stayed in the room after that and had like a  
22 continuous bought [sic] of sex and slept and drank, that was what we did." Id. at 205.

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26 <sup>9</sup> And see ROA Vol. 1 at 196 ("My income is from Social Security Disability because of post traumatic stress disorder, antisocial.").

1 According to Mr. Dennis, on the night that he killed her he had first left her alive in the  
2 room. He needed to get away because she was kind of getting on his nerves. Id at 210; ROA  
3 Vol. 2 at 246-247. Back in the room he and she were on the bed. ROA Vol. 1 at 190. She  
4 was asking him personal questions that got around to his experience in Vietnam. Id. She  
5 asked him if he had ever killed anyone and he said "of course." She called him on that  
6 statement claiming that he would not be capable of such a thing because he was "too kind."  
7 Mr. Dennis then strangled her. Id at 190-191.<sup>10</sup> Mr. Dennis admitted to using his belt. ROA  
8 Vol. 2 at 252.

10 Katherine Raven, a forensic pathologist, testified that Ms. Straumanis "died from  
11 asphyxia due to neck compression, most likely by strangulation." ROA Vol. 2 at 282. Ms.  
12 Straumanis' blood alcohol level was .37 at the time of the autopsy. Id at 286.

13  
14 **Aggravators found by the Panel**

15 The State first called Barbara Johnson who testified that in 1978 Mr. Dennis was her  
16 boyfriend and that in that year Mr. Dennis was arrested for assaulting her. Id at 319-320. She  
17 said that he attacked her in her kitchen and threatened to kill her. Id at 320. They had been  
18 arguing over the fact that she had found a job and, since he had no job, he wanted her to get  
19 him a job at the place where she worked. Id at 321. She told him she would get an application  
20 for him but then he was on his own. Id. Mr. Dennis became angry, grabbed Ms. Johnson by  
21 her hair and cut her with a knife when she grabbed for his arm. Id. Ms. Johnson, on cross-  
22 examination, acknowledged that she could tell Mr. Dennis was "drunk" when this happened.  
23

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26 <sup>10</sup> Later Mr. Dennis added that while they were on the bed they could only "play around" because the amount of  
alcohol he had been drinking meant that "ain't no real sex going to happen." He told the detectives that he found  
that "kind of frustrating for me, too. And then here comes the challenge." ROA Vol. 2 at 251.

1 Id at 326. She also testified that in the 20 years since this happened she has had no contact  
2 with Mr. Dennis. Id at 325.<sup>11</sup>

3 The State next called Lana Miller. ROA Vol. 2 at 338. Ms. Miller told the panel that in  
4 1983 she lived in Mountlake Terrace, Washington. Id. In December of that year she was  
5 present in a home of a friend that was set on fire. Id at 338-339. The friend, Fred Rasmussen,  
6 and Ms. Miller were watching the news and eating dinner. Id at 340. They heard a loud  
7 explosion from the back of the house. When they got to the back bedroom they saw that the  
8 window was broken, charred and blacken. There was fire on the window pane. Id. When they  
9 went outside they saw Mr. Dennis. Id at 341. "He was just standing there with a very blunt  
10 look on his face." Id at 342. Ms. Miller ran inside and called the police. When they arrived  
11 Ms. Miller pointed in the direction Mr. Dennis had taken. Id at 342-343.<sup>12</sup>

12  
13  
14 The State next called Stephen Foster who testified that he was a Police Commander  
15 employed by the city of Mountlake Terrace, Washington. Id at 353. In December 1983 he  
16 was a patrol officer employed by the same city. Id. In the early morning hours of December 9,  
17 1983, he responded to a reported structural fire. There he was directed to Mr. Dennis -- who  
18 had been identified as the man who set the fire. Id at 354. Mr. Dennis was standing by the  
19 driver's side of a truck and he had a five-inch knife being "palmed" in his hand. Id at 355. At  
20 one point Mr. Dennis swung the knife at the officer causing him to step back, pull out his  
21 service revolver and ordering Mr. Dennis to drop the knife. Id at 356. Mr. Dennis did not  
22 comply and soon found himself confronted by additional police officers including a canine  
23  
24

25 <sup>11</sup> Exhibit 6 is the certified conviction packet from Washington dealing with Mr. Dennis' arrest in 1978 and  
26 resulting conviction in 1979.

<sup>12</sup> Subsequent to Mr. Dennis' conviction arising out of this incident, Lana Miller's mother married Mr. Dennis and  
Mr. Dennis became Ms. Miller's stepfather. ROA Vol. 2 at 352.

1 officer. Id at 357. Mr. Dennis made slow swinging gestures so that he was pointing his knife  
2 at each of the officers. Id. Mr. Dennis asked of each officer if he was going to be the one to  
3 shoot him. Id at 358. After a bit of a stalemate, one officer attempted to get close enough to  
4 Mr. Dennis to knock the knife out of his hand with a long nightstick. Id. Ultimately Mr.  
5 Dennis made a thrusting gesture at the canine officer whereupon Officer Foster shot him. Id at  
6 359.<sup>13</sup>

7  
8 Judge Cherry's canvass of Mr. Dennis

9 At his sentencing hearing Mr. Dennis elected not to testify and elected not to make a  
10 statement in allocution to the panel. ROA Vol. 2 at 369. Accordingly, Judge Cherry  
11 canvassed Mr. Dennis on these topics.<sup>14</sup>

12  
13 Mr. Dennis, in response to Judge Cherry's questions informed the panel that he would be  
14 53 years old in October, 1999. Id at 369-370. Mr. Dennis had completed high school as well  
15 as one year of college. The year of college was when Mr. Dennis was in the penitentiary in  
16 1985. It was a community college program. Id at 370. Mr. Dennis did a four-year term in the  
17 military. Id at 373.

18 Mr. Dennis explained to Judge Cherry that he had been diagnosed with some type of  
19 delayed stress syndrome, but that it was not related to his experience in the Air Force. Rather,  
20 it was from serious childhood assault incidents in his past. Id at 373-374.<sup>15 16</sup> In August of  
21 1995, Mr. Dennis was hospitalized for a suicide attempt. He had attempted to kill himself with  
22

23  
24 <sup>13</sup> Exhibit 7 is the certified conviction packet from Washington dealing with Mr. Dennis' arrest in 1983 and  
resulting convictions in 1984 arising from these incidents.

25 <sup>14</sup> Mr. Dennis did allow his counsel to submit records from his prior hospitalizations. ROA Vol. 2 at 368. See  
Exhibits 10, 11, 12, 13, 14, 15.1 through 15.5.

26 <sup>15</sup> See ROA Vol. 2 at 377 (abused as a child).

1 alcohol and pills. He was placed in the Nevada Mental Health Institute. Id at 375.<sup>17</sup> Mr.  
2 Dennis told Judge Cherry that as far as alcohol was concerned he had probably started drinking  
3 "alcoholically" when he was 13 or 14 years of age. Id.

4  
5 Mr. Dennis acknowledged that while watching the videotape as it played there were  
6 parts he didn't remember. "It was pretty fuzzy." Id at 378. When asked if he remembered  
7 killing the victim Mr. Dennis responded "yes." Id at 380. Judge Cherry pressed: "[a]nd it was  
8 all over the fact that she was talking to you about being in Vietnam, and she maybe insulted  
9 your manhood?" Mr. Dennis: "Your Honor, I don't know what point I went off. I don't know.  
10 It's just somewhere along the line something happened, and that ended up." Id.<sup>1819</sup>

11  
12 Finally, Judge Cherry asked Mr. Dennis about his prior prison sentences and how he did.  
13 Mr. Dennis responded that he did all right and during his last sentence in 1984 he went to  
14 school a little bit while in prison. Id at 383.

15 Mr. Dennis turned down the panel's repeated invitation to present mitigating evidence.  
16 Judge Cherry summed up Mr. Dennis' position: "... it sounds like you want to die. I think  
17 that's what you are telling me. Is that what you are telling me?" Id at 382. Mr. Dennis  
18 responded: "I don't see a whole lot to look forward to." Id.

19  
20 As noted above, the panel sentenced Mr. Dennis to death. This automatic appeal  
21 followed.

22  
23 <sup>16</sup> See ROA Vol. 2 at 403 (post traumatic stress disorder has been primarily associated with child abuse, physical,  
verbal and sexual child abuse).

24 <sup>17</sup> Mr. Dennis stated that he had attempted suicide several times in the past but could not give an exact number  
because he had "lost count." ROA Vol. 2 at 377. One report reviewed by the panel indicated approximately 12  
suicide attempts. ROA Vol. 2 at 404.

25 <sup>18</sup> Later that afternoon, Judge Berry asked Mr. Dennis to identify other "victims" he had killed in the past because  
the records given to the panel didn't support the notion that he had done so. ROA Vol. 2 at 405. Mr. Dennis  
26 admitted that "[t]here wasn't anybody else." Id.

<sup>19</sup>

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2  
3 **ARGUMENT**

4 **THE IMPOSITION OF THE DEATH PENALTY IN THIS CASE -- WHICH WAS SOLEY**  
5 **PREDICATED UPON THREE (3) PRIOR FELONY AGGRAVATORS THAT WERE**  
6 **EACH SEVERAL YEARS OLD -- WAS EXCESSIVE GIVEN THE FACTS OF THIS CASE**  
7 **AND THE CHARACTER OF THE DEFENDANT.**

8       As set forth above, Mr. Dennis entered a guilty plea to the single murder count charged  
9 in the Information. He did so knowing the State would seek the death penalty in this case. Mr.  
10 Dennis' plea forecloses any appellate challenge to the factual basis of the charge, as well as to  
11 the elements constituting the offense. But, significantly, Mr. Dennis' plea (and resulting  
12 conviction) does not foreclose an appellate challenge to the propriety of the sentence of death  
13 that was imposed in this case. And this is true notwithstanding Mr. Dennis' statements to the  
14 investigating detectives when he was interviewed by them, or to Judge Berry at the time of his  
15 arraignment, or to the sentencing panel at the time of his sentencing that he preferred death as  
16 opposed to a life sentence in the Nevada State Prison. That Mr. Dennis refused to permit his  
17 trial counsel to pursue either a trial on the merits or at least a full presentation of mitigating  
18 evidence at the time of sentencing in no way precludes this Court's full and fair review of the  
19 penalty imposed to determine whether the death penalty was excessive considering both the  
20 crime and the character of defendant. See NRS 177.055(2) (mandating certain types of review  
21 to be taken by the Supreme Court in capital cases). Indeed, the Court's mandatory review  
22 required by the statute is not limited to a mere perfunctory weighing of the aggravating  
23 circumstances and mitigating factors. Instead, this Court must examine the record in its  
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1 entirety to determine whether the death penalty imposed herein was, in fact, *the* appropriate  
2 penalty given the facts of the case and the character of the defendant, Mr. Dennis.

3 In this case the panel found only three (3) aggravators to exist and each of the three was  
4 a prior felony conviction suffered by Mr. Dennis. Significantly they are each several years old.  
5 The first conviction was over twenty (20) years ago and was for a second-degree felony  
6 assault. The facts showed that Mr. Dennis, while drunk, got into an argument with a roommate  
7 over whether she would help him find employment. Mr. Dennis entered a guilty plea and was  
8 granted probation. Over the ensuing twenty-year period the victim of that assault has had no  
9 contact with Mr. Dennis.  
10

11 The second and third felony convictions arise from the same 1983 incident. Here, Mr.  
12 Dennis was convicted of arson and second-degree assault (the only person injured in the  
13 assault was Mr. Dennis -- having been shot by a police officer). As a result Mr. Dennis was  
14 sent to prison. He served approximately two and one half years and while there took some  
15 community college courses.  
16

17 1.

18 "Although the Eighth Amendment's ban on cruel and unusual punishment does not  
19 prohibit capital punishment, it does prohibit death sentences that are disproportionate for  
20 certain crimes or individuals." Project, Review of Criminal Procedure, 86 Georgetown L.J.  
21 1745, 1814 (1998)(footnotes omitted).  
22

23 In *Haynes v. State*, 103 Nev. 309, 739 P.2d 497 (1987), this Court noted:

24 [t]he United States Supreme Court has observed "that under  
25 contemporary standards of decency death is viewed as an  
26 inappropriate punishment for a substantial portion of convicted  
first degree murders."

1  
2 103 Nev. at 319-320 (quoting *Woodson v. North Carolina*, 428 U.S. 280, 296 (1976). In  
3 *Haynes*, as in the case of *Biondi v. State*, 101 Nev. 252, 699 P.2d 1062 (1985) before it and in  
4 the case of *Chambers v. State*, 113 Nev. 974, 944 P.2d 805 (1997) after it, this Court reduced  
5 sentences of death to life without the possibility of parole because in each instance the death  
6 penalty imposed therein was excessive given the nature of the case and the character of the  
7 defendant.

8  
9 In *Haynes*, this Court said:

10 [t]he basis on the record for the jury's death verdict was a  
11 single aggravating circumstance, namely, a prior violent act in  
12 the form of an armed robbery committed fifteen years prior to  
13 this crime when Haynes was eighteen years old.

14 Haynes is a homeless wanderer who has been in and out of  
15 mental institutions for the past four or five years. He has  
16 committed a grave and serious offense, but it does not appear to  
17 us that it can be properly and justly maintained that this man  
18 deserves to die for what he did.

19 103 Nev. at 319.<sup>20</sup>

20 More recently, in *Chambers*, this Court reversed a death sentence finding that the  
21 alleged torture aggravator had not been proven. Additionally this Court found that while prior  
22 felony convictions had been proven, they were too old to fairly justify imposing a sentence of  
23 death. This Court said:

24 ... under our obligation to review the record to determine  
25 whether the sentence of death was excessive considering the  
26 crime and the defendant, we conclude, after comparing the  
27 circumstances of the murder and the defendant in this case with  
28 the circumstances in other cases in which this court has affirmed

29  
30 <sup>20</sup> Haynes struck the victim in that case twice on the head with an iron pipe. The victim died from the head  
injuries. 103 Nev. at 311.

1 the death penalty, that imposition of the death penalty here is  
2 excessive.

3 One factor contributing to our conclusion that the death  
4 penalty is excessive is that one of the aggravating circumstances  
5 was not supported by the evidence. *Also*, the prior convictions,  
6 referred to crimes that occurred eighteen years prior to the  
7 verdict in question, when Chambers was eighteen years old.  
8 *This hardly shows a pattern of violence sufficient to justify the  
9 death penalty.*

10 113 Nev. at 984-985 (italics added).<sup>21</sup>

11 Similarly, in the instant case death is inappropriate. Given the significant period of time  
12 that has elapsed since Mr. Dennis' felony convictions prior to this case, it is submitted that, as  
13 in *Chambers* and *Haynes*, they do not suffice to prove a pattern of violence sufficient to justify  
14 the death penalty imposed by the panel herein.

15 2.

16 As noted above, NRS 177.055(2) requires this Court to review the imposition of the  
17 death penalty in this case to determine if, given the facts concerning both the crimes and the  
18 defendant, the penalty imposed was excessive and must be set aside. The panel found two  
19 mitigating factors; namely, that Mr. Dennis was abusing alcohol at the time of the killing and  
20 that Mr. Dennis had a significant history of mental illness. As the plurality opinion of the  
21 Supreme Court in *Woodson*, noted:

22 in capital cases the fundamental respect for humanity underlying  
23 the Eighth Amendment ... requires consideration of the character  
24 and record of the individual offender and the circumstances of  
25 the particular offense as a constitutionally indispensable part of  
26 the power of inflicting the penalty of death.

<sup>21</sup> Chambers stabbed the victim in that case approximately seventeen times; two of which were sufficient to kill the victim. 113 Nev. at 980.

1 428 U.S. at 304. And, as noted by Justice O'Connor in her concurring opinion in *California v.*  
2 *Brown*, 479 U.S. 538, 545 (1987), there is a "belief, long held by this society, that defendants  
3 who commit criminal acts that are attributable to a disadvantaged background, or to emotional  
4 and mental problems, may be less culpable than defendants who have no such excuse."

5  
6 The record below clearly demonstrated Mr. Dennis' history of mental illness -- including  
7 several failed suicide attempts -- as well as his history of abusing alcohol and perhaps even his  
8 medications. Also established by the documents submitted to the panel was the fact of Mr.  
9 Dennis' abuse as a child -- physical, verbal and sexual. All factors supporting a finding of life  
10 over death in this case. *Cf California v. Brown, supra.*

11  
12 More significantly, the record paints a picture of two lonely down-and-out people who,  
13 in March 1999, happen to meet each other on the street and who subsequently for a few days  
14 thereafter, found solace together in drink and sex.<sup>22</sup>

15 There is no question that Ms. Stroumanis' death is a tragic aftermath of this meeting.  
16 And, here, as in *Haynes*, it is not denied that Mr. Dennis has committed "a grave and serious  
17 offense" but, as this Court stated in *Haynes*, it cannot "be properly and justly maintained that  
18 this man deserves to die for what he did." 103 Nev. at 319. Mr. Dennis certainly deserves to  
19 be punished for his crime, but here, as in *Chambers*, "based on the strict standards that have  
20 been adopted for the imposition of the death penalty, capital punishment is excessive." 113  
21 Nev. 985.  
22  
23  
24

25 <sup>22</sup> Empty vodka bottles and empty beer containers were found in the room during the police search. During his  
26 interview Mr. Dennis told the detectives that he and Ms. Stroumanis had been putting away a fifth of vodka every  
few hours. And, as Mr. Dennis told the detectives, they would stay in the room and have sex, sleep and drink  
continuously; broken only by periods of time when he went out to get more "booze."

1  
2 A full, fair and careful review of the record in this case should convince this Court that  
3 the panel's sentence of death below must be set aside and a sentence of life without the  
4 possibility of parole in the Nevada State Prison be placed in its stead. That Mr. Dennis  
5 seemingly sought the death penalty should not mean that he should receive it.  
6

7 The record in this case does not support death.

8 **CONCLUSION**

9 For the reasons and authorities set forth above, it is respectfully submitted that the  
10 panel's death sentence in this case was excessive given the circumstances of the crime and the  
11 character of the defendant, Mr. Dennis. Additionally, it is respectfully submitted that the  
12 panel's reliance on three prior felony aggravators that were between fifteen (15) to twenty (20)  
13 years old to support the imposition of death constituted significant sentencing error. All of  
14 which requires this Court in this case to, "under contemporary standards of decency" find that  
15 life without the possibility of parole is more appropriate than a death sentence.  
16

17 DATED this <sup>TH</sup>20 day of October 1999.

18 Respectfully Submitted,

19  
20 **MICHAEL R. SPECCHIO**  
21 Washoe County Public Defender

22 By: 

23 **JOHN REESE PETTY**  
24 Chief Deputy  
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CERTIFICATE OF COMPLIANCE

I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied upon is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 20<sup>th</sup> day of October, 1999.

  
\_\_\_\_\_  
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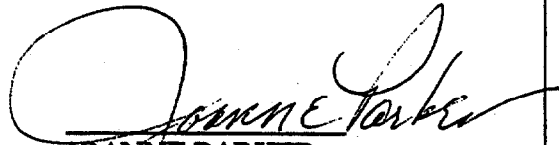
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document addressed to:

GARY HATLESTAD  
Deputy District Attorney

DATED this 20<sup>th</sup> day of October, 1999.

  
JOANNE PARKER

## IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

DEC 17 1999

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

TERRY JESS DENNIS,

Appellant,

v.

THE STATE OF NEVADA,

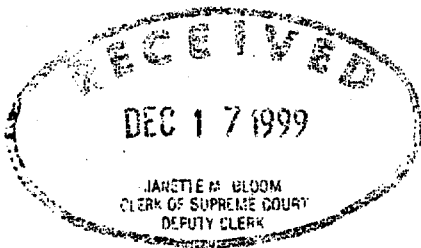
No. 34632

Respondent.

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12/14/99

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1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2  
3 TERRY JESS DENNIS,

4 Appellant,

5 v.

6 THE STATE OF NEVADA,

No. 34632

7 Respondent.  
8 \_\_\_\_\_/

9 RESPONDENT'S ANSWERING BRIEF

10 I. STATEMENT OF ISSUES

11 Whether the imposition of the death penalty is excessive  
12 where appellant, who has three prior felony convictions for  
13 violence, lured a woman into his motel room and killed her for the  
14 mere pleasure of killing, and stated that he felt no remorse for  
15 the killing and that he would kill again.

16 II. STATEMENT OF FACTS

17 On March 9, 1999, Dennis called a dispatcher at the Reno  
18 Police Department and told her that he had killed a woman several  
19 days earlier, and that her body was still in his room at the  
20 Horseshoe Motel (ROA I, 134, 136). Dennis requested that only one  
21 female and one male detective come to his room, and that  
22 "[e]verybody else stay . . . away." (ROA I, 137)

23 At approximately 7:15 to 7:30 p.m., Detective Robert  
24 Bennett entered Dennis's room pursuant to a search warrant (ROA I,  
25 147). The detective found "quite a bit of debris, bottles, empty  
26 food containers"; "a bed that looked like it had been slept in";

1 and another bed with "a blanket covering a lumpy form that turned  
2 out to be the deceased." (ROA I, 148) Detective Bennett described  
3 the body as a white female who was lying on her stomach; "[t]he  
4 right side of her face was up," and "[h]er legs were spread about  
5 90 degrees to each other." (ROA I, 148). A pillow was under the  
6 woman's pelvis, "which protruded the buttocks up into the air."  
7 (ROA I, 148-149). The body was completely unclothed (ROA I, 149).

8 Detective Bennett observed "purge coming from the  
9 [woman's] nose and mouth"; there appeared to be blood "[o]n the  
10 buttock near the anus." (ROA I, 149). The detective also described  
11 black hairs "that were not part of her body that were just laying  
12 on the buttock near the anus, and there was some visible moisture  
13 deeper inside the anus." (ROA I, 149). Detective Bennett found a  
14 brown leather belt on the floor (ROA I, 151).

15 After he was Mirandized, Dennis explained to two other  
16 detectives what had occurred (ROA I, 177). He said that on the  
17 first or second night after he had checked into the motel, he  
18 started walking to a karaoke bar on West Second Street; on the way,  
19 he met a woman, Ilona Straumanis, who explained that she had been  
20 recently beat up by another man (ROA I, 150, 184). Since it was  
21 cold outside and Ms. Straumanis did not have a coat, Dennis invited  
22 her to the bar for a beer (ROA I, 181, 184). At that moment,  
23 Dennis knew that he would kill her; as Dennis explained, she was "a  
24 fly in my fucking web, man."<sup>1</sup> (ROA II, 248, 255-256, 257).<sup>2</sup>

---

25 <sup>1</sup>The State quotes extensively from Mr. Dennis; unfortunately,  
26 there is significant profranity within those quotes.

1 After the bar closed at 4:30 a.m., Dennis and Ms.  
2 Straumanis returned to his motel room (ROA I, 189). During the  
3 next several days, Dennis and Ms. Straumanis "stayed in the room  
4 after that and had like a continuous bought [sic] of sex and slept  
5 and drank." (ROA I, 205) Dennis explained that by befriending Ms.  
6 Straumanis over a period of time, she would be easier to kill (ROA  
7 II, 256-257). Dennis related that on an earlier occasion he had

8 picked up a gal before, and, like I said,  
9 about a month or so ago, I checked myself into  
10 the VA Hospital because I picked up this gal  
11 and I had every intention of doing the same  
fucking thing to her except in the act of  
bondage she got scared, she got spooked and  
split, so I didn't get to finish.

12 (ROA II, 229).

13 Accordingly, Dennis had decided this time to "[t]ake it a little  
14 slower, take it a little slower and charm, man." (ROA II, 257).

15 One evening, while Dennis and Ms. Straumanis were in his  
16 room, Dennis said that

17 she was asking me personal questions, you know  
18 like who I really am and shit, you know, what  
19 I'd done and stuff and, you know, I said,  
20 well, I'm a Vietnam Vet and I've done a lot of  
21 things I'm not very proud of and shit. So we  
22 started talking about that. And she asked me  
23 if I ever killed anybody and I said of course  
24 I have. And she said, "No you haven't, you're  
25 not capable, you're too kind," and that's when  
26 things went wrong.

27 . . . .

28 . . . I'd killed other people but something

29 <sup>2</sup>Dennis explained that "certain women just kind of give off  
30 this . . . sense of being a victim." (ROA II, 270).

1           about the way she said it.

2           . . . . .

3           . . . she said that I wasn't capable of killing  
4 anyone. So I proved her wrong.

5 (ROA I, 190-191).<sup>3</sup>

6 Dr. Katherine Raven, a forensic pathologist, concluded that Ms.  
7 Straumanis "died from asphyxia due to neck compression, most likely  
8 by strangulation." (ROA II, 282)

9           Dennis told the detectives that he was aware what he was  
10 doing when he strangled the woman, and that he knew that it was  
11 wrong in terms of society's laws (ROA I, 193; ROA II, 225, 242).  
12 He said that he could not blame the crime on alcohol (ROA II, 246).  
13 Dennis, however, viewed the murder as a non-violent, "natural" act  
14 (ROA I, 193-194). He described the reason behind the murder as  
15 follows:

16           I don't remember. Honest to God, I don't remember.  
17 I don't care and I didn't care then. I saw her  
18 (inaudible), I saw myself as a predator. She was  
19 easy and I, you know, did what I felt was the thing  
20 to do. The whole time I pictured her as a  
21 (inaudible). Okay? It's something I'd been  
22 wanting to do for a long time and I just hadn't  
23 done it. There she was and there I was and  
24 (inaudible).

25           <sup>3</sup>At a later point in the interview with the detectives, Dennis  
26 explained it like this: "she asked if I ever killed anybody and  
blah, blah, blah, and I said yes, and she said how? and I said  
with my hands and she called bullshit on me. I said so you don't  
think I can? You don't think I will? She goes no, you are not  
capable, you know. Wrong, wrong thing to say. Wrong fucking thing  
to say." (ROA II, 250).

1 DETECTIVE RAFAQAT: Why had you been  
2 wanting to do something like this?

3 MR. DENNIS: I don't know. I really --  
4 it's hard to explain. To see if I could, to  
5 see if I would and being told that I couldn't,  
6 just kind of popped the bubble (inaudible).

7 . . . . .

8 MR. DENNIS: I've been called a socio-  
9 path, and there's a reason for that.

10 . . . . .

11 MR. DENNIS: Because I don't give a fuck about  
12 anybody and how they feel, including myself.  
13 Whatever I do is okay. Now everybody kind of takes  
14 their chances if they come anywhere near me. I  
15 could be whatever to whatever circumstance it calls  
16 for. Now, you want to go past that, go for it, but  
17 you better have credentials to understand what I'm  
18 talking about.

19 DETECTIVE BURKE: (Inaudible) were you  
20 diagnosed with that here in Reno?

21 MR. DENNIS: Uh-huh, I have sociopathic  
22 tendencies, so -

23 (ROA I, 207-209).<sup>4</sup>

24 When he was asked what he was thinking as he was killing  
25 Ms. Straumanis, Dennis provided the following insight into his  
26 character:

DETECTIVE RAFAQAT: Are you having what  
kind of thoughts, what kind of are you having,  
are you having any emotions other than being  
angry and trying to want to prove because you  
were challenged, are you having (inaudible)

---

<sup>4</sup>Dennis added that he "just [doesn't] like people much." (ROA I, 196). He denied that his crime was the result of reading about or seeing people like Ted Bundy. Instead, Dennis said that he had finally given in to his impulse to do what he wants without regard to other people (ROA II, 258).

1 your mind?

2 MR. DENNIS: No, no. I just -- actually,  
3 I felt a lot of peace. I felt kind of at  
4 peace about the whole thing; that, yeah, I can  
do this and still not give a fuck, you know.  
I can kill somebody and not even care.

5 DETECTIVE RAFAQAT: Any flashbacks going  
6 through your head?

7 MR. DENNIS: Nah, nah. She was nobody  
8 to me. It didn't matter. It just didn't  
9 matter. I didn't care.

10 DETECTIVE RAFAQAT: Nothing that you may  
11 have done in Vietnam (inaudible)?

12 MR. DENNIS: (Inaudible) nothing absolute-  
13 ly to do with anything. I killed her because  
14 I knew I fucking could, that's the long and  
15 short of it.

16 DETECTIVE RAFAQAT: She challenged you  
17 because you couldn't?

18 MR. DENNIS: She said I couldn't. Proved  
19 her wrong, didn't I?

20 DETECTIVE RAFAQAT: Yeah, you did.

21 MR. DENNIS: Damn right I did.

22 What else do you need to know? Jesus Christ,  
23 guys.

24 DETECTIVE BURKE: You know what I -- I  
25 need to know this. We're sitting here in this  
26 room, you seem like you're a pretty  
intelligent guy to me.

MR. DENNIS: I am. I'm very intelligent,  
actually.

DETECTIVE BURKE: And I want to make sure  
you understand what you're saying to --

MR. DENNIS: I know exactly what I'm  
saying.

DETECTIVE BURKE: (Inaudible) you're not

1 being hampered by any of the alcohol that you  
2 drank?

3 MR. DENNIS: I'm not being hit, I'm not  
4 being hampered. It's something that I wanted  
5 to do for a long time (inaudible). She was  
6 easy, she was there, perfect, she was the  
7 perfect victim, she was the perfect -- just  
8 met up with the wrong guy at the wrong time, I  
9 guess.

10 (ROA I, 212-214)

11 When one of the detectives asked Dennis whether anyone  
12 had asked about Ms. Straumanis after they left the bar, Dennis  
13 said,

14 THE DEFENDANT: No, no. Fuck no. She  
15 was obviously, you know, just on the streets,  
16 and, like I say, easy prey.

17 DETECTIVE RAFAQAT: Okay. Let me ask you  
18 a question, Terry. Is she saying anything to  
19 you at the time you were, you were killing  
20 her?

21 DETECTIVE BURKE: Telling you no, what  
22 are you doing?

23 DETECTIVE RAFAQAT: I mean what's she  
24 doing, I mean how was she reacting?

25 THE DEFENDANT: Well, she was just making  
26 a lot of gagging noises. You know, actually I  
have got no scratches on me. I've got no  
marks. I've got nothing. She wasn't fighting  
too hard, but I'm pretty good.

... .

THE DEFENDANT: I don't think she really  
wanted to be alive, to tell you the truth. I,  
I just had that feeling that she really wanted  
to die and so I think I did her a favor.

DETECTIVE RAFAQAT: Did she ever ask you,  
hey, put me out of my misery --

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THE DEFENDANT: No, no.

DETECTIVE RAFAQAT: Okay.

THE DEFENDANT: No, she just seemed like a pathetic fucking soul, man.

DETECTIVE RAFAQAT: Did she offer you some resistance at being choked?

THE DEFENDANT: A little bit, a little bit.

DETECTIVE RAFAQAT: Okay.

THE DEFENDANT: A little bit, but like I say I'm, I'm real good.

(ROA II, 222-223).

Later, Dennis and the detectives discussed whether Dennis understood the significance of his crime:

DETECTIVE RAFAQAT: And if I was to understand you correctly on what you told me earlier through that five to ten minutes you have no emotions, you're at peace?

THE DEFENDANT: Yeah.

DETECTIVE RAFAQAT: Or --

THE DEFENDANT: I felt like I was doing her a fucking favor.

MR. BURKE: You never thought maybe I better stop or I'm going too far?

THE DEFENDANT: Huh-uh, no, not a bit, not a bit, no, no.

DETECTIVE RAFAQAT: Did you know that your act was murder?

THE DEFENDANT: That is an interesting question. That's an interesting question. I'm sure I did, and I do, but, you know, it's like so what?

DETECTIVE RAFAQAT: Okay. So, do you

1 know murder is wrong obviously?

2 THE DEFENDANT: Of course.

3 DETECTIVE RAFAQAT: Okay. So you knew murder was  
4 wrong, it didn't make any difference to you?

5 THE DEFENDANT: No. If it did I wouldn't  
6 have fucking done it.

7 DETECTIVE RAFAQAT: So at the time it is  
8 fair to say that you knew the difference  
9 between right and wrong?

10 THE DEFENDANT: Of course.

11 DETECTIVE RAFAQAT: And that whatever you  
12 were doing was wrong?

13 THE DEFENDANT: I didn't think it was  
14 wrong though.

15 DETECTIVE RAFAQAT: Okay. What did you  
16 think?

17 THE DEFENDANT: I thought I was doing her  
18 a favor, and at the same time it made me feel  
19 good. See, if you ain't a shrink, it's  
20 probably --

21 DETECTIVE RAFAQAT: Yeah, I'm on --

22 THE DEFENDANT: But I thought, I felt, I  
23 felt like I was taking her out of her misery  
24 and at the same time I was coping some peace  
25 behind it, because it is, well, one of the  
26 first times since acts of war I've taken a  
life and felt good about it. Not joyous good,  
but just peacefully, okay, yeah. The bitch  
(inaudible) so I kill her, you know, da. Some  
people just need to be put out of their  
misery, you know.

23 (ROA II, 224-226)

24 In terms of being punished for his crime, Dennis  
25 explained as follows:

26 DETECTIVE RAFAQAT: What do you think

1 should happen to you or somebody who does a  
2 similar act?

3 THE DEFENDANT: Well, better question, I  
4 have got one for you, who gives a fuck?

5 DETECTIVE RAFAQAT: I'm just asking your  
6 state of mind.

7 THE DEFENDANT: I did her a God damn  
8 favor.

9 DETECTIVE RAFAQAT: You did.

10 THE DEFENDANT: Okay. I took her out of  
11 her fucking misery. How should I feel?

12 DETECTIVE RAFAQAT: How should you be  
13 treated then, what should happen to you?

14 THE DEFENDANT: How should I feel? I  
15 mean, I feel okay about it. I'm not, like I'm  
16 not worried. Okay.

17 DETECTIVE BURKE: So if you got the death  
18 penalty that would be okay with you?

19 THE DEFENDANT: Sure, sure.

20 DETECTIVE BURKE: Or 40 years in prison  
21 or life in prison?

22 THE DEFENDANT: I would rather have a God  
23 damn death penalty than 40 years in prison. I  
24 mean, I've spent time in prison before and  
25 it's a drag, but one way or the other I don't  
26 really give a fuck.

...

THE DEFENDANT: Uh-huh. Uh-huh. Yeah, I  
sent up a red flag a long time ago and I think  
it should have been heeded. Like I said, the  
reason I called in the first place was because  
I know damn good and well if I hadn't had this  
would not be the last one, you know what I'm  
saying? It was too easy and felt too good. I  
don't know what else to say.

1 When asked why he had decided to report his crime, Dennis  
2 responded,

3 Because I feel like if I didn't get stopped  
4 this would not be the last time that I would  
5 do something like this, because I found it  
6 exciting. I actually enjoyed it.

7 (ROA II, 229).

8 Although Dennis said that he had tried and failed to  
9 commit the same crime a month earlier, he added that he had "done  
10 it before in other places, but this is the only time I've ever  
11 killed anybody in this manner, in this method about this." (ROA II,  
12 229-230). In reference to talking with the detectives about other  
13 crimes, Dennis told the detectives, "Well--if something that came  
14 up that you know you think, if you get some kind of an idea that  
15 I've got something else to do something else, then you can I'm  
16 sure." (ROA II, 292-293).

17 On March 29, 1999, the State filed an information  
18 charging Dennis with one count of first degree murder with the use  
19 of a deadly weapon (ROA I, 8-10). On April 14, 1999, the State  
20 filed a Notice of Intent to Seek Death Penalty, alleging four  
21 aggravating circumstances connected with the commission of the  
22 crime (ROA I, 20-24).

23 On April 16, 1999, the State filed a guilty plea  
24 memorandum in which Dennis acknowledged his "desire to enter a plea  
25 of guilty," and that he could be "punished by death by lethal  
26 injection," and that the State would be arguing for such a sentence  
(ROA I, 81, 83). On April 16, 1999, Dennis pled guilty to the

1 murder count (ROA I, 25-80).

2           On July 20, 1999, a three-judge panel sentenced Dennis to  
3 death. The panel concluded that the State had established three of  
4 the four alleged aggravators beyond a reasonable doubt and that  
5 they outweighed the two mitigating circumstances (ROA I, 118-20).  
6 Specifically, the panel found that Dennis had been previously  
7 convicted of second degree felony assault in 1979, second degree  
8 felony assault in 1984, and second degree felony arson in 1984 (ROA  
9 I, 118-120). As mitigators, the panel found that Dennis was  
10 intoxicated during the murder and suffers from mental illness (ROA  
11 I, 118-120).

12 III. ARGUMENT

13 A. THE EVIDENCE SUPPORTS THE THREE-JUDGE  
14 PANEL'S FINDING OF THREE AGGRAVATING  
15 CIRCUMSTANCES, AND A SENTENCE OF DEATH,  
16 CONSIDERING THE CRIME AND THE DEFENDANT.

17 NRS 175.554(2)(3) provide as follows:

18 In cases in which the death penalty is sought:

19 2. The jury or panel of judges shall  
20 determine:

21 (a) Whether an aggravating circumstance or  
22 circumstances are found to exist;

23 (b) Whether a mitigating circumstance or  
24 circumstances are found to exist; and

25 (c) Based upon these findings, whether the  
26 defendant should be sentenced to life imprisonment  
with the possibility of parole, life imprisonment  
without the possibility of parole or death.

3. The jury or the panel of judges may  
impose a sentence of death only if it finds at  
least one aggravating circumstance and further  
finds that there are no mitigating circum-

stances sufficient to outweigh the aggravating circumstance or circumstances found.

See also, NRS 200.030(4) (a) (person convicted of first degree murder may be punished by death "only if one or more aggravating circumstances are found and any mitigating circumstance or circumstances which are found do not outweigh the aggravating circumstance or circumstances.").

Circumstances by which first degree murder may be aggravated are specifically defined in NRS 200.033. In this case, the State alleged that Dennis had been convicted three times of "[a] felony involving the use or threat of violence to the person of another," NRS 200.033(2) (b), and that Dennis had subjected "the victim of the murder to nonconsensual sexual penetration immediately before, during or immediately after the commission of the murder." NRS 200.033(13).

Thus, several requirements must be satisfied before a defendant becomes eligible for a sentence of death. First, at least one aggravating circumstance must be found beyond a reasonable doubt. Pertgen v. State, 110 Nev. 554, 875 P.2d 361 (1994); NRS 175.554. Second, the jury or panel must consider whether there is a mitigating circumstance(s). Third, the fact finder must weigh the aggravating and mitigating circumstances. The mitigating circumstance(s) must not outweigh the aggravating circumstance(s). Even if the fact finder determines that the aggravator(s) outweigh the mitigator(s), the jury or panel is never required to impose a sentence of death. At this point, the

1 defendant is merely eligible for a sentence of death. Middleton v.  
2 State, 114 Nev. 1089, 968 P.2d 296 (1998). The fact finder may  
3 then consider a sentence of death by considering evidence regarding  
4 the "defendant or victim and on any other matter which the court  
5 deems relevant to sentence, whether or not the evidence is  
6 ordinarily admissible." NRS 175.552(3). "This evidence should be  
7 considered because each capital defendant must be treated as a  
8 unique human being and receive an individualized sentencing  
9 determination based on his character and the circumstances of the  
10 crime. Middleton, 114 Nev. at \_\_\_, 968 P.2d 296, 315 (1998).

11 Where a sentence of death has been imposed, "the sentence  
12 must be reviewed on the record by the supreme court, which shall  
13 consider, in a single proceeding if an appeal is taken:

- 14 (a) Any errors enumerated by way of appeal;  
15 (b) Whether the evidence supports the finding of  
16 an aggravating circumstance or circumstances;  
17 (c) Whether the sentence of death was imposed under the  
18 influence of passion, prejudice or any arbitrary factor;  
19 and  
20 (d) Whether the sentence of death is excessive,  
21 considering both the crime and the defendant.

22 NRS 177.055(2).

23 1. 1979 Felony Assault Conviction

24 In December 1978, Barbara Johnson was Dennis's  
25 girlfriend. On one occasion, Ms. Johnson and Dennis were in Ms.  
26 Johnson's kitchen when Dennis became angry because Ms. Johnson was

1 not willing to offer more help in getting Dennis a job at her place  
2 of employment (ROA II, 319-321). Consequently, Dennis attacked Ms.  
3 Johnson and said he would kill her (ROA II, 320). As Ms. Johnson  
4 described the attack, Dennis "had a hold of my hair and he had a  
5 knife and came up, well, came up to my neck and I grabbed it, and  
6 when grabbed for his arm and the knife he ripped the blade through  
7 my hand." (ROA II, 321). Fortunately, Ms. Johnson was able to  
8 escape to a neighbor's house; however, she still has a scar on the  
9 palm of her hand from the incident (ROA II, 323-324).<sup>5</sup>

10 2. 1984 Felony Arson and Assault  
11 Convictions

12 In December 1983, Dennis firebombed a residence in  
13 Washington state with a gas can that had a rag in it (ROA II, 338-  
14 341). The fire burned the side of the house (ROA II, 341-342).

15 When the police were summoned to the fire, Officer Foster  
16 met up with Dennis on the street (ROA II, 353, 355). As the  
17 officer placed his hand on Dennis's shoulder, the officer asked  
18 Dennis to turn towards Dennis's truck. Dennis, however, turned on  
19 the officer and swung his knife at him (ROA II, 356). The officer  
20 then drew his revolver and ordered Dennis to drop the knife.  
21 Dennis refused. After several more officers arrived, Dennis began  
22 slowly swinging the knife at each of the officers. Dennis said  
23 that he knew how to throw a knife, and that it was his "one bullet"

---

24 <sup>5</sup>The State presented a certified copy of the judgment of  
25 conviction for second degree assault to which Dennis had no  
26 objection (ROA II, 326; ROA III, 479-481)

1 (ROA II, 357); he added that he would stab anyone who tried to take  
2 the knife from him (ROA II, 358). Finally, Dennis "lunged and  
3 thrust the knife at the canine officer." (ROA II, 359).  
4 Consequently, Officer Foster shot Dennis, the knife flew out of his  
5 hand, and officers arrested Dennis (ROA II, 359).<sup>6</sup>

6 In this case, the State alleged four aggravating  
7 circumstances. The three-judge panel found Dennis's three prior  
8 felony convictions were aggravators under NRS 200.033(2)(b) because  
9 they involved "the use or threat of violence to the person of  
10 another." The panel rejected the State's fourth aggravator - that  
11 Dennis had subjected Ms. Straumanis to nonconsensual sexual  
12 penetration (ROA II, 331-34).

13 The evidence supports the panel's findings. The State  
14 presented certified copies of each of Dennis's convictions; and  
15 Dennis did not object to the introduction of the convictions.  
16 During his first assault, Dennis told Barbara Johnson that he was  
17 going to kill her as he pinned her against her kitchen door and  
18 held her by her hair at knifepoint. As Dennis shoved the knife  
19 towards Ms. Johnson's neck, Ms. Johnson grabbed the knife. Dennis  
20 pulled the knife through her hand and said, "hurts, don't it?" (ROA  
21 II, 322) Fortunately, Ms. Johnson escaped to a neighbor's house  
22 and "only" suffered a scar to her hand. (ROA II, 323).

23  
24 <sup>6</sup>Exhibit 7 was introduced without objection as the certified  
25 convictions for second degree arson and second degree arson (ROA  
26 II, 359-360).

1           During his second assault, Dennis swung his knife at a  
2 police officer who was forced to defend himself with his pistol.  
3 After Dennis refused to drop his knife, he threatened to kill  
4 several police officers. Dennis was shot when he lunged at one of  
5 the officers with his knife.

6           Immediately before the second assault, Dennis set a home  
7 on fire. Although no one was hurt, the potential for serious  
8 injury and death was significant.

9           Although some time has passed since Dennis committed his  
10 felonies, Dennis's prior convictions, especially in relation to the  
11 present murder, tell us several things. It is now apparent that  
12 despite the lapse of twenty years, Dennis not only continues to be  
13 a violent individual, but that he has graduated to the stage of  
14 killing for the mere thrill of it. Thus, Dennis has demonstrated  
15 a pattern of escalating violence. The State submits that Dennis,  
16 regardless whether he killed before this case, has now developed  
17 into a highly dangerous serial killer: even if he has committed  
18 only one murder, Dennis has confirmed that he will kill again  
19 merely for the exciting pleasure and the ease of being able to do  
20 so. See Simmons v. South Carolina, 512 U.S. 154 (O'Connor, J.  
21 concurring in judgment) ("[i]n capital cases . . . the defendant's  
22 future dangerousness is a consideration on which the State may rely  
23 in seeking the death penalty.") (cited in Bolin v. State, 114 Nev.  
24 503 \_\_ n.10, 960 P.2d 784, 804 (1998)). Despite knowing the  
25 difference between right and wrong, Dennis has decided that murder  
26 is justifiable under his own set of principles, determined by his

1 evil impulses, which he no longer attempts to control, and his  
2 judgment as to the value of a person's life.

3         Significantly, Dennis observed that he felt a sense of  
4 peace after he killed Ms. Straumanis. Recognizing that he is  
5 simply a sociopath, Dennis has declared that "everybody kind of  
6 takes their chances if they come any where near me." (ROA I, 209).  
7 Thus, when the aggravators are viewed in light of Dennis's  
8 character and the facts of his crime, their relevance is especially  
9 apparent.

10         The facts of this particular murder also warrant a  
11 sentence of death. Dennis knew that he would kill Ms. Straumanis  
12 when he first met her. Accordingly, he lured Ms. Straumanis with  
13 kindness into his motel room, and waited several days before  
14 killing her so that she would not become "spooked" like his  
15 previous target. Although Dennis killed Ms. Straumanis after the  
16 perceived challenge to his "manhood", this was merely the impetus  
17 that triggered Dennis's desire to kill for no valid reason. Thus,  
18 the planning, deliberateness, and mere callousness of the murder  
19 warrant a sentence of death.<sup>7</sup>

---

20  
21         <sup>7</sup>Dennis argues that this case is similar to Haynes v. State,  
22 103 Nev. 309, 739 P.2d 497 (1987), and Chambers v. State, 113 Nev.  
23 974, 944 P.2d 805 (1997). In Haynes, this Court vacated the  
24 defendant's sentence because the crime was a "'crazy' motiveless  
25 killing." Haynes, 113 Nev. at 319 (1987). This Court noted that  
26 the defendant was "a mentally disturbed person lashing out  
irrationally, and probably delusionally, and striking a person he  
did not know and probably had never seen before." Haynes, 103 Nev.  
at 319 (1987). The Court also noted that the single aggravating  
circumstance was a fifteen-year-old prior conviction for armed  
robbery, committed when Haynes was eighteen years old. In  
Chambers, this Court vacated a death sentence where the murder "was

1           B.   THE SENTENCE OF DEATH WAS NOT IMPOSED  
2           UNDER THE INFLUENCE OF PASSION, PREJUDICE OR  
3           ANY ARBITRARY FACTOR.

4           There is no indication, and Dennis does not argue, that  
5           the three-judge panel imposed the sentence of death under the  
6           influence of passion, prejudice or any arbitrary factor. To the  
7           contrary, it appears that the three-judge panel gave Dennis every  
8           benefit of the doubt to which he was legally and reasonably  
9           entitled. For example, the panel found that the State had failed  
10          to meet its burden in establishing the sexual penetration  
11          aggravator, even though Dennis stated that he had sexually  
12          assaulted Ms. Straumanis before and after he murdered her (ROA I,  
13          118-120; 211; ROA II, 224, 227-228).

14          Further, the Honorable Michael Cherry expressed consider-  
15          able concern regarding Dennis's decision not to put forth further  
16          mitigating evidence or to exercise his right to allocution:

17          not planned in advance and . . . resulted from the emotionally  
18          charged confrontation in which Chambers was wounded and his  
19          professional tools were being ruined." Chambers, 113 Nev. at 985  
20          (1997). The Court also noted that the only valid aggravator -  
21          prior convictions that occurred eighteen years before the murder  
22          when Chambers was eighteen years old - did not show "a pattern of  
23          violence sufficient to justify the death penalty." Chambers, 113  
24          Nev. at 985 (1997). The motive and facts of the killing in the  
25          present case are vastly different. Moreover, Dennis's criminal  
26          history is more severe. The question in this case is whether the  
27          death sentence is excessive considering this crime and this  
28          defendant. Proportionality review, comparing the present case to  
29          other cases, is not required by the United States Constitution nor  
30          Nevada law. See Pulley v. Harris, 465 U.S. 37, 44, 50-51 (1984)  
31          (holding that the Constitution does not require a proportionality  
32          review of death sentences); 1985 Nev. Stat. Chap. 527, Subsection  
33          1, at 1597 (repealing the proportionality review requirement  
34          formerly required by NRS 177.055(2)); See also, Guy v. State, 100  
35          Nev. 770, 784, 839 P.2d 578, 587 (1992).

1 Q You understand that, and I know you have certainly  
2 competent counsel, we have a competent District Attorney  
here prosecuting the matter.

3 And just as one who does not take the death penalty  
4 lightly, I just want to make sure you understand the  
5 position that you are putting us in by not offering  
anything except these written documents, at least at this  
point.

6 What type of discussions have you had with counsel  
7 about that, if I may ask? Have you had a thorough  
discussion with your counsel?

8 A Beyond thorough, Your Honor.

9 Q I guess she pushed you a little bit to maybe  
10 cooperate a little more so that she could use her  
skills as an excellent defense attorney?

11 A That pretty much sums it up.

12 Q You are resistant at this time to do that; is that  
13 correct?

14 A That's correct.

15 Q And you understand the consequences  
16 completely?

17 A Yes, sir, I believe I do.

18 (ROA II, 370-371)

19 Nevertheless, Judge Cherry continued to canvass Dennis,  
20 and Dennis, in answering the judge's questions, in effect provided  
21 mitigating evidence about his background (ROA II, 371-384).  
22 Although Dennis told the panel that he wanted the death penalty  
(ROA II, 378), Judge Cherry nearly implored Dennis to reconsider:

23 Q You understand why I want to know in  
24 particular?

25 A No.

26 Q Because I have represented people in your  
position who would do anything to live. Would

1 do anything to have judges say, life  
2 imprisonment.

3 And for whatever reason, the District  
4 Attorney would not want to let them live, and  
5 jury would decide not to let them live.

6 So I want to make sure, if I'm the one  
7 that says you are going to die, that I'm sure  
8 that in your own mind, you are not holding  
9 back, and that you would maybe give your  
10 counsel, skilled, skilled counsel -- I'm very  
11 impressed with the quality of the prosecution  
12 and the defense in this matter -- and give  
13 them a chance to litigate this case.

14 I know it's your life, but there are 84  
15 people right now on death row in Nevada that  
16 would like the opportunity to have this type  
17 of Public Defender come forth and to have some  
18 of the mitigation that has come forth through  
19 the DA even, the mitigation in this case, and  
20 allow them to at least try to convince three  
21 judges, one from this jurisdiction, one from  
22 this judicial district, and the other two of  
23 use from outside this judicial district, so  
24 that we can really know we did a service to  
25 the public that elected us to office and a  
26 service to you, sir.

Are you sure you won't reconsider and let  
her put forth whatever case she feels she  
should be able to put forth?

A No.

Q And could you just tell me why, and then  
I'll leave you alone.

A Pretty much for the reasons you've  
already stated, my earlier statement to Judge  
Berry.

That prison existence is just existence.  
It's not living. I mean, you are just there  
taking up space, collecting dust. It's a  
warehouse.

Q Over a million people in prison in this  
country, a million people, and not that it's

1 the best place in the world, but it beats  
2 being in the ground, at least to me it is.

3 At least to the clients I've represented  
4 over the years who have taken someone else's  
5 life. Without any justification, they have  
6 taken somebody's life.

7 You supposedly did that. That's what you  
8 have told us. That's what you told Judge  
9 Berry, but that doesn't necessarily mean that  
10 a person wants to die.

11 But it sounds like you want to die. I  
12 think that's what you are telling me.

13 Is that what you are telling me?

14 A I don't see a whole lot to look forward  
15 to.

16 Q Then would you reconsider and let your  
17 counsel put forth the mitigation, which is no  
18 guarantee. We still may vote 3-0 that you  
19 should die.

20 Would you consider that?

21 A I have considered it, and I'm not going  
22 to do it.

23 Q Okay. I thank you for allowing me to  
24 have this colloquy with you, sir, but I had to  
25 have it for my own conscience, so that you  
26 understand.

(ROA II, 380-382).

It is apparent that the three-judge panel conscientiously  
considered the death penalty without improper motive or other  
factor.

#### VI. CONCLUSION

In this case, a three-judge panel carefully considered  
the crime, Dennis's character, and the aggravating circumstances.  
Dennis, an intelligent human being, has consciously evolved into a

1 calculating killer. A sentence of death is proper because it is  
2 the only sentence that Dennis proportionately deserves and that  
3 will restore the balance of justice. Accordingly, the State  
4 respectfully requests this Court to affirm the three-judge panel's  
5 sentence of death.

6 DATED: December 14, 1999.

7 RICHARD A. GAMMICK  
8 District Attorney

9 By 

10 JOSEPH R. PLATER  
11 Appellate Deputy  
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CERTIFICATE OF SERVICE

Pursuant to NRAP Rule 25, I hereby certify that I am an employee of the Washoe County District Attorney's Office and that on this date, I forwarded a true copy of the foregoing document, through the Washoe County Interagency Mail, addressed to:

JOHN REESE PETTY  
Chief Appellate Deputy  
Washoe County Public Defender's Office  
Reno, Nevada 89501

DATED: December 14, 1999

*Mr. Kathleen Maddox*

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 34632

**FILED**

JAN 24 2000

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Appeal from A Judgment of Conviction  
Second Judicial District Court of the State of Nevada  
The Honorable Janet Berry, District Judge

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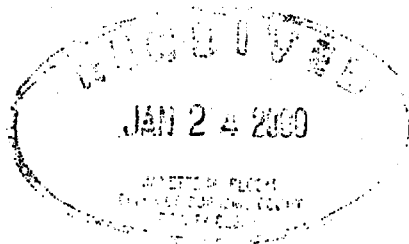
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1/21/00



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LEGAL ISSUE PRESENTED

WHETHER, CONSIDERING THE NATURE OF THE OFFENSE, THE DEFENDANT AND THE DEFENDANT'S HISTORY OF MENTAL ILLNESS AND ALCOHOL ABUSE, THE SENTENCE OF DEATH IN THIS CASE IS EXCESSIVE.

ARGUMENT IN REPLY

THE STATE'S SELECTIVE QUOTATION OF STATEMENTS MADE BY MR. DENNIS DURING HIS INTERVIEW WITH THE DETECTIVES SHORTLY AFTER REPORTING HIS CRIME AND TURNING HIMSELF IN, DISTORTS THE FACTS CONCERNING THE NATURE OF THE OFFENSE AND ERASES THE CONTEXT WITHIN WHICH THE STATEMENTS RELIED UPON THE STATE WERE MADE.

1.

This is an appeal from a sentence of death that was imposed by a three-judge panel following Mr. Dennis's plea of guilty to one count of first degree murder with the use of a deadly weapon. Although, Mr. Dennis told the investigating police detectives who interviewed him shortly after he reported the crime and turned himself in that he wanted the death penalty,<sup>1</sup> and maintained such a stance before Judge Berry when she canvassed him before accepting his plea,<sup>2</sup> as well as before

---

<sup>1</sup> See ROA Vol. 2 at 240-241: "DETECTIVE RAFAQUAT: What do you think should happen to you or somebody who does a similar act? [MR. DENNIS]: Well, better question, I have got for you, who gives a fuck? ... DETECTIVE BURKE: So if you got the death penalty that would be okay with you? [MR. DENNIS]: Sure, sure. DETECTIVE BURKE: Or 40 years in prison or life in prison? [MR. DENNIS]: I would rather have a God damn death penalty than 40 years in prison. I mean, I've spent time in prison before and it's a drag, but one way or the other I don't really give a fuck." ROA Vol. 2 at 242-243: "[MR. Dennis]: Okay. I believe that would be a just thing, yeah, an eye for an eye, a life for a life. DETECTIVE RAFAQUAT: Do you think you should be punished then for what you did? [MR. DENNIS]: I don't think I should be rewarded. If society sees that that's the right thing to do, I'm willing to take, as long as I get my say about." And ROA, Vol. 2 at 243 (telling the detectives that when he goes before the judge he is just going to enter a guilty plea).

<sup>2</sup> See ROA Vol. 1 at 45 ("I'm 52 now. I don't anticipate being a live that much longer. And I certainly don't want to just waste away for the next, what, 25 years or so whatever I've got left, doddering around in prison. I just as soon get it over faster than that. And that's the long and short of it."

1 the three-judge panel before it sentenced him to death,<sup>3</sup> in this  
2 appeal -- given the unique circumstances of this case -- Mr.  
3 Dennis now asks this Court to "affirm the judgment of  
4 conviction, [but] vacate the sentence of death and impose a  
5 sentence of life without the possibility of parole." *Chambers*  
6 *v. State*, 113 Nev. 974, 985, 944 P.2d 805 (1997).

7         The basis for this request is laid out in the Opening  
8 Brief. There, while Mr. Dennis acknowledged that he is "death  
9 eligible" under Nevada's statutory death penalty scheme, Mr.  
10 Dennis argued that the aggravators found by the three-judge  
11 panel involved prior felony convictions that were fairly old  
12 and that a significant period of time had elapsed since the  
13 time of those convictions and the instant offence. Mr. Dennis,  
14 relying on *Chambers v. State*, 113 Nev. 974, 944 P.2d 805  
15 (1997), *Haynes v. State*, 103 Nev. 309, 739 P.2d 497 (1987) and  
16 other cases, argued that his prior convictions -- which he  
17 suffered many years before the instant offense (with no further  
18 criminal history between them) did not show "a pattern of  
19 violence sufficient to justify the death penalty" in this case.  
20 *Chambers*, 113 Nev. at 985.<sup>4</sup>

21         Mr. Dennis also pointed out his history of  
22 significant mental illness, several suicide attempts, child  
23 abuse and chronic abuse of alcohol and argued that these  
24 factors too cut against the imposition of the death penalty in  
25

26 <sup>3</sup> See ROA Vol. 2 at 382: Judge Cherry: "... it sounds like you want to die. I think that's what you are telling me. Is that what you are telling me?" Mr. Dennis: "I don't see a whole lot to look forward to."

<sup>4</sup> The State's response to this argument is contained not in the text of its Answering Brief, but rather it is relegated to a footnote. See Respondent's Answering Brief at 18 n. 7. We will turn to this response shortly.

1 this case. Mr. Dennis noted that although the three-judge  
2 panel found that he was intoxicated at the time of the killing  
3 and that he suffered from mental illness as the only mitigating  
4 factors in this case, this Court's obligation under NRS  
5 177.055(2) is to examine the record in its entirety to  
6 determine whether the death penalty in this case was in fact  
7 the appropriate penalty in this case. Mr. Dennis argued that  
8 given the facts of the case as well as his character the death  
9 penalty imposed below was not the most appropriate penalty to  
10 be imposed.<sup>5</sup>

11 In response to Mr. Dennis's Opening Brief the State  
12 responds by selectively quoting from statements made by Mr.  
13 Dennis to the interviewing detectives. The result is to  
14 distort the facts concerning the nature of the offense by  
15 erasing the context in which they were made. In the course of  
16 doing so the State concludes that although this is the first  
17 time Mr. Dennis has ever killed anyone he is nonetheless a  
18 "serial killer." The State also responds by discussing at  
19 length an uncontested fact; namely, that Mr. Dennis's prior  
20 convictions made him death eligible.<sup>6</sup> The "death eligibility"  
21 question has been covered in the Opening Brief and in select  
22 passages in this Reply Brief. We turn to the State's  
23

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24  
25 <sup>5</sup> And see ROA Vol. 1 at 94-117 (Defendant's Memorandum Re: Sentencing [discussing several mitigating factors involved in this case]).

26 <sup>6</sup> It is important to note that while it is conceded that Mr. Dennis is "death eligible" under Nevada's statutory death penalty scheme, it is not conceded that he is an appropriate candidate for the imposition of the death penalty. See *Haynes v. State*, 103 Nev. 309, 319-320, 739 P.2d 497 (1987) (noting that the United States Supreme Court has observed that "under contemporary standards of decency is viewed as an *inappropriate* punishment for a substantial portion of convicted first degree murders." [italics added, citation omitted]).

1 understanding of the record and the State's interpretation of  
2 the record as it derives from that understanding.

3 2.

4 As noted above the State's Answering Brief largely  
5 quotes from Mr. Dennis's interview by the police detectives.  
6 This is understandable given the outrageous comments Mr. Dennis  
7 made. But this Court must understand that at the time Mr.  
8 Dennis made his comments he was banking on the State seeking  
9 death penalty. Moreover, he was coming off some serious  
10 drinking (that had taken place over the course of several days'  
11 <sup>8</sup>) before he turned himself in.

12 At the outset of the interview (and through most of)  
13 Mr. Dennis was provided cokes and Pepsi because as he put it:  
14 "I've been drinking a lot of beer (inaudible) and you get so  
15 dehydrated and everything." ROA Vol. 1 at 169; and see ROA  
16 Vol. 1 at 176: ("DETECTIVE RAFAQUAT: "No, no, now come on.  
17 It's been a long day. You're downing that Coke pretty good  
18 [sic]. You must have been -- MR. DENNIS: Dehydrated, man.");  
19 ROA Vol. 1 at 198 ("DETECTIVE RAFAQUAT: I'll bring you another  
20 Coke here (inaudible)"). As the interview was coming to a  
21 close Mr. Dennis could feel the alcohol that he had consumed  
22 wear off:

23 DETECTIVE RAFAQUAT: Are you okay?  
24  
25

26 <sup>7</sup> See ROA Vol. 1 at 189 ("MR. DENNIS: (Inaudible) we drank for days, we were putting a fifth away every few hours.").

1 [MR. DENNIS]: Yeah. The booze is  
2 starting to wear off.

3 DETECTIVE BURKE: Do you want to get  
4 up and walk around for a couple of minutes?

5 [MR. DENNIS]: No, I'd rather stay  
6 right where I'm at.

7 ...

8  
9 DETECTIVE BURKE: Do you want some  
10 medical attention?

11 [MR. DENNIS]: No. I'm just starting  
12 to do withdrawals from the booze, man,  
13 that's all.

14 DETECTIVE RAFAQUAT: All right. Okay.

15  
16 [MR. DENNIS]: So I'm just getting  
17 real shaky and this way, you know.

18 ROA Vol. 2 at 261-262; and see ROA Vol. 2 at 304 ("DETECTIVE  
19 BURKE: Do you need anything? [MR. DENNIS]: No, man, I'm  
20 just, I'm having serious withdrawals here. I'm just kind of  
21 getting antsy."); and ROA Vol. 2 at 305 ("[MR. DENNIS]: I'm  
22 sure, I'm sure, I'm just doing some withdrawal, you know.  
23 UNKNOWN PERSON: No problem. [MR. DENNIS]: Sweating.").

24  
25  
26 <sup>8</sup> See ROA Vol. 1 at 205 ("MR. DENNIS: We stayed in the room. She stayed in the room, I went and got more  
booze. We stayed in the room after that and had like a continuous bought of sex and slept and drank, that was  
what we did.").

1 Mr. Dennis brings these facts to the Court's attention not  
2 to suggest that his interview was involuntary. Rather, Mr.  
3 Dennis brings these facts to the Court's attention to place his  
4 remarks in context. Mr. Dennis is confident that this Court,  
5 when it views that video tape of the interview in its entirety,  
6 will understand that much of what Mr. Dennis said was "puffing"  
7 and "macho-image making" designed to make the detectives take  
8 him seriously when he said he would rather be sentenced to  
9 death than to life in prison.

10 This can be illustrated by a couple of examples. For  
11 example, early in the interview Detective Burke asked Mr.  
12 Dennis what branch of the service he served in when he was in  
13 Vietnam. ROA Vol. 1 at 196. Mr. Dennis responded: "I was in  
14 the Air Force *officially*." ROA Vol. 1 at 196-197 (*italics*  
15 added). Detective Burke then asked: "[u]nofficially?" Mr.  
16 Dennis answered: "I can't tell you. I can say officially in  
17 the Air Force and (inaudible) and --." Clearly Mr. Dennis here  
18 sought to leave the impression that he was in some military or  
19 intelligence covert operation and that his assignment in the  
20 Air Force was merely a cover for his more important work in  
21 Vietnam. Yet, in open court when asked about his military  
22 experience Mr. Dennis admitted that not only was he in the Air  
23 Force but also had a noncombat assignment:

24 JUDGE BERRY: And then the records  
25 also indicate that you had a suicide  
26 attempt while you were a member of the  
United States Air Force in 1966, and that's  
when they assigned you to a clerical  
position.

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[MR. DENNIS]: That's right.

JUDGE BERRY: So you were never in combat when you were in the military; is that correct?

[MR. DENNIS]: Not technically, no.

JUDGE BERRY: Were you assigned any platoons or engage in any combat missions at all?

[MR. DENNIS]: No. I was noncombat. I was Air Force. I worked in the APO in Saigon. During the Tet (phonetic), we were about half-ass overran. So I don't know if that was combat or not. I got shot at plenty. They tore the place up pretty good. But other than any [sic] actual combat, no.

ROA Vol. 2 at 403.

Another example of Mr. Dennis "puffing" his adventures to the detectives can be found at ROA Vol. 1 at 229-230, where he tells the detectives that this is the first time that he had ever killed someone "in this method" -- suggesting that he had nonetheless killed before: "[a]nd other ones somebody has already taken the fall for, so I don't God damn matter. I'm not talking about anything else." ROA Vol. 1 at 230. Yet, once again in open court Mr. Dennis had to admit he lied about other killings to the detectives:

1 JUDGE BERRY: And also during the  
2 taped interview with the officers, you  
3 indicated one of the issues in this case  
4 that sort of precipitated your anger and  
5 the ultimate murder was that the victim  
6 challenged you and indicated that she felt  
7 you were too nice to kill anyone. And you  
8 indicated that you had killed before, and  
9 that sort of set you off. And yet there's  
10 nothing in the records that we've reviewed  
11 that indicates who you have killed in the  
12 past. And it doesn't appear to be  
13 associated with the military background.  
14 Can you enlighten the Court as to who the  
15 other victims were, the other people? Was  
16 that associated with your military  
17 background or previous criminal history?

18 [MR. DENNIS]: There wasn't anybody  
19 else.

20 JUDGE BERRY: Thank you, sir.

21 ROA Vol. 2 at 404-405 (*italics added*)

22 The alcohol consumption by Mr. Dennis (and its  
23 wearing off over the course of the interview) and the examples  
24 given above, two among in many, are offered to the Court to  
25 illustrate the fact that Mr. Dennis's statements to the  
26 investigating detectives must be taken in context in order to  
27 appreciate how incredible his other comments sound. The State  
28 in its Answering Brief ignores the context of Mr. Dennis's  
29 statements and finds the most bizarre of explanations offered  
30 by Mr. Dennis to be the only truth. See Respondent's Answering  
31 Brief at 18 (arguing the Mr. Dennis "knew" he would kill Ms.  
32 Straumanis when he first met her and that he therefore "lured"  
33 her with kindness to his motel room). To be sure Mr. Dennis

1 suggested such a scenario to the detectives, but that was not  
2 the only one (and it wasn't the one Mr. Dennis finally admitted  
3 to):

4 DETECTIVE RAFAQUAT: Hey, Terry,  
5 please help me. Maybe it's clear with his  
6 mind, but it really is not in mine. We  
7 have talked about, as I look back at my  
8 notes, about three different issues here  
9 that could have triggered what you did.

10 One is you had been thinking about  
11 doing it. Two is she was a miserable old  
12 hag that needed to be put out of her  
13 misery, your own, I mean basically your own  
14 words, right? Third is she challenged you  
15 whether you could kill somebody or not.  
16 And forth is maybe sexual, she may not have  
17 approved of you doing her in the ass.

18 [MR. DENNIS]: Uh-huh.

19 DETECTIVE RAFAQUAT: Okay. Help me  
20 out, will you? I'm not a shrink. Okay.  
21 I'm a plain ol' Joe. Help me out, of these  
22 four this what is the one, which of these  
23 four is the one that did it for ya and put  
24 her where she is now?

25 [MR. DENNIS]: I'd have to say  
26 probably the challenge.

ROA Vol. 2 at 249 (*italics added*).

23 A fair reading of the record belies the notion that Mr.  
24 Dennis should be put to death. Simply put this is not a death  
25 penalty case. The State's rhetorical characterization of Mr.

26

1 Dennis as a "serial killer" does not change this fact.<sup>9</sup> Indeed,  
2 not even the State believes that Mr. Dennis is actually a  
3 serial killer. The State writes: "[t]he State submits that  
4 Dennis, *regardless whether he killed before this case*, has now  
5 developed into a highly dangerous serial killer: even if he has  
6 committed only one murder, Dennis has confirmed that he will  
7 kill again merely for the exciting pleasure and the ease of  
8 being able to do so." Respondent's Answering Brief at 17 (case  
9 citation omitted, italics added). The State merely wishes to  
10 plant the idea of "future dangerous" in the minds of the  
11 members of this Court. However, the record showed (see the  
12 questioning of Mr. Dennis by Judge Cherry) that Mr. Dennis did  
13 not have any problems while he was incarcerated. And the  
14 record belies the notion that Mr. Dennis, when treated  
15 medically for his depression and other mental illnesses, cannot  
16 operate in a civil and respectful fashion in the world. In  
17 sum, the so-called "future dangerousness" in this case is a  
18 false dilemma created by the State designed to justify the  
19 death penalty but having no more legal merit than that one  
20 characterizing a one-time murder as "serial-killing."

21 ////

22 ////

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<sup>9</sup> "Serial" is defined in part as "of, relating to, consisting of, or arranged in a series, rank, or row ... appearing in successive parts or numbers ... belonging to a series maturing periodically *rather than to a single date.*" WEBSTER'S NEW COLLEGIATE DICTIONARY (1976) (italics added).

1  
2 Finally, in the Opening Brief Mr. Dennis noted that this  
3 case was more like cases such as *Chambers* and *Haynes* in the  
4 context of first degree murder convictions and that like those  
5 two cases -- where the death penalty had been vacated -- the  
6 death penalty in this case should also be vacated. The State's  
7 response is contained in footnote 7 to its Answering Brief.  
8 See Respondent's Answering Brief at 18, n. 7. In this footnote  
9 the State cites to *Haynes* and *Chambers* and quotes from each  
10 case. The State does little more. The State certainly does not  
11 distinguish these cases from the present case.<sup>10</sup> What the State  
12 does argue is that this Court is not required to engage in a  
13 proportionality review in death penalty cases and that this  
14 Court must look to "this crime and this defendant." Id.  
15 (emphasis in original). This is true, there is no longer a  
16 requirement for a proportionality review. This was also true  
17 when this Court decided *Chambers*. Nonetheless, in *Chambers*  
18 this Court reversed a death sentence. There, this Court said:

19 under our obligation to review the record  
20 to determine whether the sentence of death  
21 was excessive considering the crime and the  
22 defendant, we conclude, after comparing the  
23 circumstances of the murder and the  
24 defendant in this case with the  
25 circumstances in other cases in which this  
26 court has affirmed the death penalty, that  
imposition of the death penalty here is  
excessive.

1 113 Nev. at 984 (italics and bold added).

2 The Court's obligation in this case is the same as it was  
3 in *Chambers*. Clearly, Mr. Dennis's case is closer to the  
4 *Chambers* case than say to the case of *Geary v. State*, 115 Nev.  
5 \_\_\_\_, 977 P.2d 344 (1999) (affirming death penalty) because  
6 *Geary* is a repeat killer while Mr. Dennis (like *Chambers*) was  
7 not. Similarly, Mr. Dennis's case is closer to the *Chambers*  
8 case than to the case of *Middleton v. State*, 114 Nev. 1089, 968  
9 P.2d 296 (1998) (affirming death penalties) because *Middleton*  
10 killed two women after kidnapping them while Mr. Dennis did not  
11 kidnap anyone and only killed one individual.<sup>11</sup> After these  
12 comparisons (and others that this Court can make from its vast  
13 death penalty jurisprudence), this Court, when considering this  
14 crime and the nature of this defendant must conclude that the  
15 imposition of the death penalty here is excessive.

16 CONCLUSION

17 As stated in the Opening brief, a full, fair and  
18 careful review of the record in this case should convince this  
19 Court that the panel's sentence of death below was excessive  
20 given the nature of the offense and Mr. Dennis's character. As  
21 such, the sentence must be set aside and a sentence of life  
22 without the possibility of parole in the Nevada State Prison be  
23 placed in its stead.

24  
25  
26 <sup>10</sup> The State, without analysis but only simple reliance on its interpretation of the record, concludes that "the motive and facts of the killing in the present case are vastly different. Moreover, Dennis's criminal history is more severe." Respondent's Answering Brief at 18-19, n. 17

<sup>11</sup> *Geary* and *Middleton* were chosen for this comparison because they are both recent death penalty cases from Washoe County.

1 This Court should not be influenced by the fact that Mr.  
2 Dennis sought the death penalty when he was interviewed by the  
3 investigating officers, when he was canvassed by Judge Berry  
4 and when the three-judge panel considered the evidence against  
5 him. Simply because one seeks death does not mean that he  
6 should receive it.

7 Thus, in this appeal Mr. Dennis asks this Court to "affirm  
8 the judgment of conviction, vacate the sentence of death and  
9 impose a sentence of life without the possibility of parole."  
10 *Chambers v. State*, 113 Nev. 974, 985, 944 P.2d 805 (1997).

11 DATED this 20<sup>th</sup> day of January 2000.

12 Respectfully Submitted,

13  
14 MICHAEL R. SPECCHIO  
15 Washoe County Public Defender

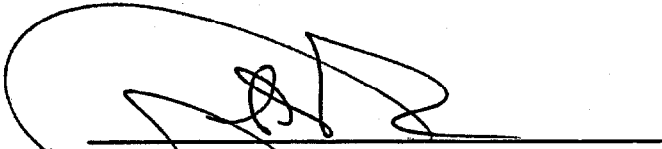
16 By: 

17 JOHN REESE PETTY  
18 Chief Deputy  
19 Nevada Bar No. 000010  
20 Washoe County Public Defender  
21 P.O. Box 30083  
22 Reno, Nevada 89520  
23 (775) 328-3475  
24  
25  
26

1 CERTIFICATE OF COMPLIANCE

2 I hereby certify that I have read this appellate brief, and  
3 to the best of my knowledge, information, and belief, it is not  
4 frivolous or interposed for any improper purpose. I further  
5 certify that this brief complies with all applicable Nevada Rules  
6 of Appellate Procedure, in particular NRAP 28(e), which requires  
7 every assertion in the brief regarding matters in the record to  
8 be supported by a reference to the page of the transcript or  
9 appendix where the matter relied upon is to be found. I  
10 understand that I may be subject to sanctions in the event that  
11 the accompanying brief is not in conformity with the requirements  
12 of the Nevada Rules of Appellate Procedure.

13 DATED this 20<sup>th</sup> day of January, 2000

14  
15  
16   
17 JOHN REESE PETTY  
18 Chief Deputy  
19 Nevada Bar No. 00010  
20 Washoe County Public Defender  
21 Post Office Box 30083  
22 Reno, Nevada 89520  
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24  
25  
26

000141

1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of the Washoe County  
3 Public Defender's Office, Reno, Washoe County, Nevada, and that  
4 on this date I forwarded a true copy of the foregoing document  
5 through the US mail and/or the Washoe County inter-office mail  
6 system, as addressed, to:

7  
8 Gary Hatlestad, Appellate Deputy  
9 Washoe County District Attorney's Office  
10 VIA INTER-OFFICE MAIL

11 Terry Jess Dennis # 62144  
12 Ely State Prison  
13 PO Box 1989  
14 Ely NV 89301

15 DATED this 20th day of January, 2000.

16  
17  
18   
19 Kellie Roberson  
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000142

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

DEC 26 2000

TERRY JESS DENNIS,

BY JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

Appellant,

vs.

No. 34632

THE STATE OF NEVADA,

Respondent.

PETITION FOR REHEARING

Rule 40(c)(2) of the Nevada Rules of Appellate Procedure provides as follows:

(2) The court may consider rehearings in the following circumstances:

(i) When the court has overlooked or misapprehended a material fact in the record or a material question of law in the case, or

(ii) When the court has overlooked, misapplied or failed to consider a statute, procedural rule, regulation or decision directly controlling a dispositive issue in the case.

Mr. Dennis seeks rehearing because the Opinion of the Court overlooks material information presented in the record, and appears to misapply information alleged as an aggravating circumstance by the State, but not found as an aggravating circumstance by the panel of Judges who determined Mr. Dennis' sentence.

Mr. Dennis was charged with murder, with the use of a deadly weapon. Record on Appeal, Vol. I pp. 8-9, hereinafter ROP I, 8-9.

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DEC 26 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

000143

00-22429

1 The State notified Dennis of its intent to seek the death  
2 penalty, based upon alleged aggravating circumstances: to wit,  
3 Dennis had prior felony convictions involving the use or threat  
4 of violence, and that he committed the crime immediately before,  
5 during or after a sexual assault. ROP I, 20-23. He elected to  
6 plead guilty, and face a three-judge panel for sentencing. ROP,  
7 I, 81-86. He authorized his counsel to present mitigating  
8 evidence on his behalf. ROP, II, 408, 11. 16-18. Counsel for  
9 Mr. Dennis showed the sentencing panel that Mr. Dennis had served  
10 in the military during the Viet Nam war, but had been discharged  
11 for psychiatric reasons, after attempting suicide. ROP II, 403,  
12 11. 1-4.  
13

14 The records provided the panel disclosed that Mr. Dennis was  
15 repeatedly the victim of abuse as a child, including sexual  
16 abuse. The records are referenced by Judge Berry in her  
17 questioning of Mr. Dennis at the conclusion of the hearing. ROP,  
18 II, 403. The Opinion misses the connection between Dennis'  
19 alcoholic reaction to the 16-year old daughter of his girlfriend  
20 deciding to run away to be with a forty-year old man, referring  
21 instead to her dinner "with a family friend." 116 Nev.Adv.Op.  
22 113, page 7. There also appears to be an error in reference to  
23 the home having been set on fire. The evidence regarding the  
24 incident show that the small canister Mr. Dennis threw against  
25 the exterior of the home was completely ineffectual.  
26

1 With respect to the second incident, the Court refers to the  
2 defendant's having set a house on fire. However, the testimony  
3 at the penalty hearing discloses that when Ms. Miller went out-  
4 side small bits of fire were burning on the grass. ROP, II, 7,  
5 11. 8-11. She noted that the side of the house looked burnt, but  
6 was not burning. She ran outside immediately after hearing a  
7 loud boom. ROP, II, 6, lines 13-14, and II, 7, 11. 7.

9 The opinion also appears to reference information to which  
10 the panel sustained defense objection. At 116 Nev.Adv.Op. 113,  
11 page 7, second paragraph, the Court discusses the "rampage"  
12 involving Lana Miller. However, during the penalty hearing, the  
13 Panel struck testimony relating to the second page of a report  
14 authored by Ms. Miller, because it had not been provided to the  
15 defense in a timely manner before the hearing. ROP, II, 343-347.

17 The opinion also neglects to mention that in Mr. Dennis'  
18 "attack" on Washington law enforcement he repeatedly begged them  
19 to shoot him, while challenging them with a small knife. ROP,  
20 II, 357-358. All the officers present had firearms. ROP, II,  
21 361, 11. 21-24. And, Mr. Dennis got his wish, and was shot by  
22 the officers. Id. Reports further showed that the police dog  
23 was commanded to attack Mr. Dennis after he had been shot, and  
24 had dropped his pocketknife. ROP, II, 359, 11. 9-18.

25 While the officer conceded that Dennis smelled of alcohol at  
26 the time of the offense, the officer who testified before the

1 panel claimed that Dennis had shown no signs of intoxication or  
2 mental illness. He admitted he was not trained to recognize  
3 mental illness, in fact had limited community college training  
4 over five years before, but with considerably less enthusiasm  
5 than when his responses appeared to aid the state in driving  
6 another nail in Mr. Dennis' coffin. ROP, II, 361-362.

7  
8 This Court, while noting that a proportionality review is no  
9 longer mandated, nevertheless agreed to use other cases as a  
10 frame of reference regarding excessiveness. The Court then com-  
11 pared the facts underlying its reversal of the death sentence of  
12 Roger Morris Chambers (State v. Chambers, 113 Nev. 974, 944 P.2d  
13 805 (1997)) to the present case. The Court concluded that Mr.  
14 Chambers was in an alcoholic rage, defending his property. Id. at  
15 978. Mr. Chambers was definitely in a rage, and evidence sup-  
16 ported his claims he had been drinking, although there was a  
17 question regarding how much of the drinking had preceded the  
18 offense. Id. at 979. Chambers did not have a mental health  
19 history of more than thirty years. Mr. Chambers' victim was male  
20 and Hispanic. Id. at 977. Mr. Dennis' victim was female and  
21 Caucasian. ROP, Vol. I, pp. 148, 11. 22. Mr. Chambers' victim  
22 was stabbed not fewer than seventeen times, according to the  
23 pathologist who testified at trial. Id. at 980. Mr. Dennis'  
24 victim succumbed to a single injury. ROP, Vol. II, pp. 282, 11.  
25 21-23. Mr. Chambers and Mr. Dennis reported their crimes to  
26

1 others, but Mr. Chambers (showing far more astute judgment)  
2 reported his to a psychiatrist. Id. at 977. Mr. Dennis called  
3 the police, ROP, Vol. I, pp. 136-140, then waited for them,  
4 despite having a scheduled appointment with a psychiatrist less  
5 than two weeks later. Exhibit 12.

6  
7 Mr. Chambers' prior convictions were for theft related  
8 felonies, including robbery, theft by threat or violence. 113  
9 Nev. at 984. During oral arguments in Mr. Dennis' case one of  
10 the justices queried whether Mr. Chambers' priors were misde-  
11 meanors. While he did have several of those convictions, as  
12 well, he also had a violent history, with two prior convictions  
13 for robbery. Id. Mr. Dennis was convicted of crimes of assault,  
14 then arson and assault. In the second assault case, the only  
15 person injured was Mr. Dennis. ROP, II, 360, 11. 20-22. Mr.  
16 Chambers claimed to have been acting in self-defense, a claim  
17 rejected by the jury by its verdict. The Court also noted that  
18 Chambers had been injured, an injury that the State argued at  
19 trial had been self-inflicted to support a self-defense claim.  
20 Because the jury was not specifically questioned on the record  
21 with respect to that argument, we know only that by its guilty  
22 verdict, it rejected that Mr. Chambers had acted in necessary  
23 self-defense. Mr. Dennis always accepted complete responsibility  
24 for Ms. Stroumanis' death.  
25  
26

1 The dissent in Chambers, supra, discusses distinctions in  
2 prior decisions which apply to Mr. Dennis' case, as well:

3 In Biondi, the defendant was convicted of first degree  
4 murder and sentenced to death after stabbing the victim once  
5 in the chest. Id. at 259-60, 699 P.2d at 1067 (emphasis in  
original). Chambers, 113 Nev. at 986.

6 It continues:

7 In Haynes, the defendant, a mentally disturbed homeless  
8 person who had been in and out of mental institutions, was  
9 convicted of first degree murder and sentenced to death  
10 after striking the victim twice on the back of the head with  
11 an iron pipe. Haynes, 103 Nev. at 311, 314, 739 P.2d at  
12 498, 500. In vacating the death sentence to life without  
the possibility of parole, this court characterized the  
murder as a " 'crazy' motiveless killing." Id. at 319, 739  
P.2d at 503. 113 Nev. at 986.

13 Thus, the primary difference between Mr. Dennis and Mr.  
14 Chambers appear to be that Terry Dennis at no point attempted to  
15 minimize his conduct. Terry Dennis had a documented, current and  
16 long-term history of mental health issues. The panel found that  
17 the mitigating circumstance of acting under extreme mental or  
18 emotional distress had been proven. ROP, II, 445-446, ll. 24-25  
19 and 1-3, respectively. Terry Dennis had a documented, current  
20 and long-term history of suicide attempts. Terry Dennis sought  
21 and received treatment for his mental health issues, and was  
22 pending additional treatment at the time of Ms. Stroumanis'  
23 death. The crime-related aggravator in Chambers was rejected by  
24 this court (torture). 113 Nev. at 984. The crime-related  
25 aggravator with respect to Mr. Dennis was rejected by the panel  
26

1 (sexual assault). ROP, I, 118 and 124; II, 332. However, it  
2 clearly influenced this Court.

3 In its December 4, 2000 Opinion, this Court presents  
4 significant details with respect to the alleged aggravator which  
5 the panel declined to find was sufficiently proven by the State.  
6 The Court discusses that Dennis spoke of being around by  
7 Stroumanis when he began strangling her, and started anal  
8 intercourse. It also notes he did not know if he completed the  
9 sex act while she was alive. Id. at page 3. Clearly, had the  
10 panel found this information credible, it would have found the  
11 aggravator had been proven. However, this Court revisits the  
12 sexual assault allegation again in its Opinion. On the following  
13 page, the Court notes, almost apologetically, that  
14

15 [c]hanges caused by decomposition of Stroumanis' body made  
16 determination of the existence of any sexual assault  
17 difficult. 116 Nev.Adv.Op. 113, page 4.

18 Accepting that proposition as true, it still has no appropriate  
19 place in the analysis of a capital sentence, in which the alleged  
20 aggravating circumstance to which that factor refers has been  
21 rejected by the finder of fact.

22 This Court has taken several recent opportunities to address  
23 whether or not it is a jurisdiction which engages in "reweighing"  
24 in capital cases, concluding that it is only with respect to  
25 determining whether a capital sentence remains appropriate when  
26

1 certain aggravating evidence is excluded from consideration on  
2 appeal.

3 [T]his court recently addressed the propriety of Supreme  
4 Court reweighing of aggravating and mitigating  
5 circumstances, concluding that appellate reweighing does not  
6 involve impermissible fact-finding under state  
7 constitutional or statutory law. Canape v. State, 109 Nev.  
8 864, 881-82, 859 P.2d 1023, 1034-35 (1993), cert. denied,  
9 513 U.S. 862, 115 S.Ct. 176, 130 L.Ed.2d 112 (1994). " Lane  
10 v. State, 114 Nev. 299, 956 P.2d 88, 91 (Nev. 1998).

11 This Court has limited its reweighing to nonfactual matters:

12 Reweighing involves disregarding the invalid aggravating  
13 circumstances and reweighing the remaining permissible  
14 aggravating and mitigating circumstances." Pertgen v. State,  
15 110 Nev. at 563, 875 P.2d at 366.

16 Here, where the Court places emphasis upon the facts found  
17 to be insufficient by the finder of fact, it is respectfully  
18 submitted it becomes a reweigher of facts, a position the Court  
19 has previously stated repeatedly it will not take. Accordingly,  
20 if this Court will engage in de novo factual review of capital  
21 cases, counsel should be notified before the briefs are filed, in  
22 order to supplement the record with relevant factual information,  
23 upon which it requests this Court make a determination.

24 This case differs factually and analytically from Lane and  
25 Canape, because here this Court does not remove a factor from  
26 consideration, but adds one that the panel rejected. It is

1 This Court has concluded that "other act" evidence at a  
2 capital penalty hearing must be relevant to proving an enumerated  
3 aggravator, or to rebut a mitigator, or to aid the jury in  
4 determining the appropriate sentence. Holloway v. State, 116  
5 Nev.Adv.Op. 83 (August 23, 2000). This Court specifically stated  
6 such evidence is not admissible to find the existence of an  
7 aggravating circumstance or to weigh the other act evidence  
8 against mitigating factors. Id.

10 Evidence presented by the State which the factfinder rejects  
11 occupies the same legal position as "other act" evidence, and  
12 should be rejected by this Court and not considered.

13 Thus, the Court was left with two prior incidents, although  
14 they resulted in three felony convictions. The prior incidents  
15 were twenty-one and fifteen years prior to the death of Ilona  
16 Stroumanis.

18 Based upon the foregoing, it is respectfully submitted this  
19 Court rehearing is warranted. Significant reference to the  
20 rejected aggravator is detailed in the "facts" included in the  
21 decision. Consequently, consideration of those facts by this  
22 Court reweighs the facts of the case, something this Court has  
23 claimed it will not do.

24 Further the decision overlooks the important connection  
25 between Mr. Dennis' reaction, albeit extreme and influenced by  
26 excessive consumption of alcohol, when Lana Miller went to the

1 home of a forty-year old man, and Dennis' personal sexual  
2 victimization as a child.

3 Counsel for Mr. Dennis agrees Roger Morris Chambers did not  
4 belong on Nevada's death row. Terry Jess Dennis belongs there  
5 even less.

6 DATED this 21 day of December, 2000.

7  
8 MICHAEL R. SPECCHIO  
9 Washoe County Public Defender

10  
11 By 

12 JOHN REESE PETTY  
13 Chief Appellate Deputy  
14  
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I forwarded a true copy of the foregoing document addressed to:

GARY HATLESTAD  
Deputy District Attorney

DATED this 22<sup>nd</sup> day of December, 2000.

  
VALERIE EVANS

1 CODE 1365

'00 JAN 27 P4 :04

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APPROVED  
BY *[Signature]*

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

Vs.

TERRY JESS DENNIS,

Defendant.

CASE NO. CR99-0611

DEPT. NO. 1

TRANSMITTAL CERTIFICATE

I hereby certify that the enclosed exhibit is original exhibit 17.  
This record was delivered to the county mail room system of the Second Judicial District  
Court for transmittal to the Nevada State Supreme Court on January 27, 2000,  
pursuant to the Supreme Court letter of request on January 26, 2000.

Dated, January 27, 2000.

AMY HARVEY, County Clerk

By *[Signature]*  
Ruth Morgan, Deputy

000154

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS,

No. 34632

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

JAN 23 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.

*[Signature]* C.J.  
Maupin

*[Signature]* J.  
Young

*[Signature]* J.  
Shearing

*[Signature]* J.  
Agosti

*[Signature]* J.  
Rose

*[Signature]* J.  
Leawitt

*[Signature]* J.  
Becker

cc: Hon. Janet J. Berry, District Judge  
Attorney General  
Washoe County District Attorney  
Washoe County Public Defender  
Washoe County Clerk

000155

FILED  
IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

'01 FEB -9 P1:09

AMY HARVEY, CLERK

BY

Supreme Court No. 34632

District Court Case No. CR990611

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Janette M. Bloom, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows: "Affirmed."

Judgment, as quoted above, entered this 4th day of December, 2000.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows: "Rehearing denied."

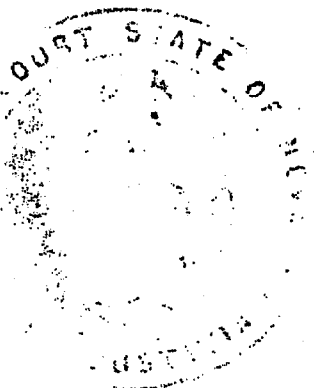
Judgment, as quoted above, entered this 23rd day of January, 2001.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada, this 8th day of February, 2001.

Janette M. Bloom, Supreme Court Clerk

By:

J. Richards  
Chief Deputy Clerk



000156

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED  
FEB 9 109 No. 34632

AMT HARVEY, CLERK  
BY

FILED

JAN 23 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.

*[Signature]* C.J.  
Maupin

*[Signature]* J.  
Young

*[Signature]* J.  
Shearing

*[Signature]* J.  
Agosti

*[Signature]* J.  
Rose

*[Signature]* J.  
Leavitt

*[Signature]* J.  
Becker

cc: Hon. Janet J. Berry, District Judge  
Attorney General  
Washoe County District Attorney  
Washoe County Public Defender  
Washoe County Clerk

000157

01-01429

CERTIFIED COPY

This document is a full, true and correct copy of  
the original on file and of record in my office.

DATE: February 8, 2001  
Supreme Court Clerk, State of Nevada

J. Richards Chief Deputy

000158

IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRY JESS DENNIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 34632

District Court Case No. CR990611

REMITTITUR

FILED

TO: Amy Harvey, Washoe County Clerk

FEB 20 2001

Pursuant to the rules of this court, enclosed are the following:

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

Certified copy of Judgment and Opinion/Order.

Receipt for Remittitur.

Record on Appeal, Vols. 1 through 4.

Exhibits: Exhibit 17-Unredacted Videotape.

DATE: February 8, 2001

Janette M. Bloom, Clerk of Court

By: *J. Richards*

Chief Deputy Clerk

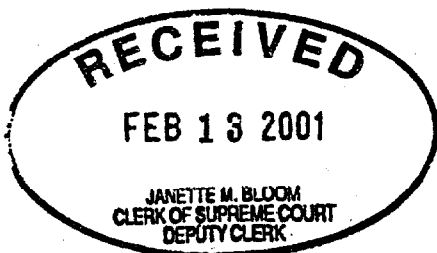
cc: Hon. Janet J. Berry, District Judge  
Attorney General  
Washoe County District Attorney  
Washoe County Public Defender

RECEIPT FOR REMITTITUR

Received of Janette M. Bloom, Clerk of the Supreme Court of the State of Nevada, the

REMITTITUR issued in the above-entitled cause, on Feb 9, 2001

*Amy Harvey*  
County Clerk



000159

01-01492

ORIGINAL

FILED

2001 MAR -2 PM 1:09

AMY HARVEY, CLERK

BY *[Signature]*  
DEPUTY

1 CODE 1250  
Richard A. Gammick  
2 #001510  
P.O. Box 30083  
3 Reno, NV 89520-3083  
(775) 328-3200  
4 Attorney for Plaintiff

5  
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
7 IN AND FOR THE COUNTY OF WASHOE.

8 \* \* \*

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR99-0611

12 TERRY JESS DENNIS,

Dept. No. 1

13 Defendant.  
14 \_\_\_\_\_/

15 APPLICATION FOR SETTING

16 TYPE OF ACTION: CRIMINAL

17 MATTER TO BE HEARD: HEARING RE: DEATH WARRANT

18 DATE OF APPLICATION: March 2, 2001 MADE BY PLAINTIFF

19 COUNSEL FOR PLAINTIFF: DANIEL J. GRECO, CHIEF D.D.A.

20 COUNSEL FOR DEFENDANT: MAIZIE PUSICH

21 CUSTODY STATUS: \_\_\_ BAIL \_\_\_ O.R. \_\_\_ IN CUSTODY  
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26 Setting at 2:00 P.M. on the 11TH of APRIL, 2001.

000160

ORIGINAL

245599  
1 TERRY DENNIS  
2 PRISON NO. 62144  
3 NEVADA STATE PRISON  
Post Office Box 607  
Carson City, Nevada 89702

4 IN PROPRIA PERSONA

5 DISTRICT COURT  
6 WASHOE COUNTY, NEVADA  
7

8 TERRY DENNIS,  
9 Petitioner,

10 vs.

11 DON HELLING, Warden at the  
12 Nevada State Prison and FRANKIE  
SUE DEL PAPA, Attorney General  
of the State of Nevada.

13 Respondents  
14

Case No. CR99-0611  
Dept. No. One

APPLICATION FOR LEAVE TO  
PROCEED IN FORMA PAUPERIS  
AND REQUEST FOR  
APPOINTMENT OF COUNSEL

(Death Penalty Case)

15 Petitioner Terry Dennis, asks leave to file the accompanying petition for post conviction relief,  
16 without prepayment of costs and to proceed in forma pauperis. Petitioner's affidavit in support of this  
17 request is attached hereto.

18 Petitioner further requests that counsel be appointed to represent him in this proceeding pursuant  
19 to Nev. Rev. Stat. §§ 34.750 and 34.820.

20 Dated this 5th day of April, 2001.  
21

22 Terry J. Dennis  
23 Terry Dennis, Petitioner  
24 Prison No. 62144  
25 Nevada State Prison  
26 Post Office Box 607  
Carson City, Nevada 89702

FILED  
2001 APR - 5 AM 9:03  
AMY HANCOCK CLERK  
DEPUTY

000161

1 TERRY DENNIS  
Prison No. 62144  
2 Nevada State Prison  
Post Office Box 607  
3 Carson City, Nevada 89702

4 In Propria Persona

5  
6 IN THE SECOND JUDICIAL DISTRICT COURT  
7 COUNTY OF WASHOE

8 \* \* \*

9 TERRY DENNIS,  
10  
Petitioner,

Case No. CR99-0611  
Dept No. One

11 vs.

12 DON HELLING, Warden at the  
Nevada State Prison and FRANKIE SUE  
13 DEL PAPA, Attorney General  
Of the State of Nevada,

AFFIDAVIT IN SUPPORT OF  
REQUEST TO PROCEED  
IN FORMA PAUPERIS

14 Respondents.

(Death Penalty Case)

15  
16 I, Terry Dennis, being first duly sworn, depose and say that I am the petitioner in the  
17 above-entitled case; that in support of my request to proceed without being required to prepay  
18 fees, costs, or give security therefor, I state that because of my poverty I am unable to pay the  
19 costs of said proceeding or to give security therefor, and that I believe I am entitled to redress.

20 I further swear that the responses which I have made to the questions and instructions  
21 below relating to my ability to pay the cost of proceeding in this Court are true:

22 1. Are you presently employed? Yes \_\_\_\_ No X

23 a. If the answer is yes, state the amount of your salary or wages per  
24 month and give the name and address of your employer.

25 N/A  
26 \_\_\_\_\_  
\_\_\_\_\_

000162

1 b. If the answer is no, state the date of your last employment and the  
2 amount of the salary and wages per month which you received.

3 1994: \$8.00 per hour  
4 \_\_\_\_\_  
5 \_\_\_\_\_

6 2. Have you received within the past twelve months any income from a business,  
7 profession or other form of self-employment, or in the form of rent payments,  
8 interest, dividends, or other source?

9 Yes X No \_\_\_\_\_

10 a. If the answer is yes, describe each source of income, and state the  
11 amount received from each during the past twelve months.

12 I received the sum of \$340.00 as

13 repayment of a loan  
14 \_\_\_\_\_  
15 \_\_\_\_\_

15 3. Do you own any cash or checking or savings account (include any funds in prison  
16 accounts)? Yes \_\_\_\_\_ No X

17 a. If the answer is yes, state the total value of the items owned.

18 N/A  
19 \_\_\_\_\_  
20 \_\_\_\_\_

21 4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable  
22 property (excluding ordinary household furnishings and clothing)? Yes \_\_\_\_\_

23 No X

24 a. If the answer is yes, describe the property and state its approximate  
25 value.  
26 \_\_\_\_\_

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N/A

5. List the persons who are dependent upon you for support and state your relationship to those persons.

None.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

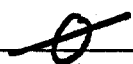
Dated this 5th day of April, 2001.

Terry G. Dennis  
Terry Dennis  
Prison No. 62144

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CERTIFICATE

I hereby certify that the petitioner, Terry Dennis, has the sum of \$10.00 on  
account to his credit at ELY STATE PRISON where he is confined. I further certify that  
petitioner likewise has the following securities to his credit according to the records of said  
institution:



DATED: 13<sup>th</sup> day of March 2001

Sandra L. Human  
Authorized officer of  
Nevada Department of Prisons  
[prison]

62144 DENNIS, TERRY J  
ESP - Elly State Prison

000166

[illegible][illegible]

DEPARTMENT CHARGES FUND							
Trans Date	Description	Comment	Reference	Srv Date	Case No	Doo No	Pag
1/01/2001		Opening Balance					
1/04/2001	NC Medical Charge-CHPAY		09112000	9/11/2000		A09281	3706
1/19/2001	PC Prescription Charge-CHPAY		09112000	9/11/2000		A09281	3706
1/31/2001	Closing Balance						

[illegible]

3/13/01  
12:10:16

NEVADA DEPARTMENT OF PRISONS  
INMATE FINANCIAL CERTIFICATE  
INMATE TRUST ACCOUNT ACTIVITY  
2000/09/14 THRU 2001/03/13

TERRY J. DENNIS 62144

DATE	TYPE	FUND	DESCRIPTION	DEPOSIT	WITHDRAWAL	BALANCE
2000/09/14	TRUS2		OPENING BALANCE			10.99
2000/12/08	DR		CMU STIPEND/NOVEMBER	5.00		5.99
2001/01/22	SP		Store Sale - 000041998		4.87-	1.12
2001/01/29	SP		Store Sale - 000042752		.13-	.00
2001/03/13	TRUS2		CLOSING BALANCE			.00
10/09/14	TRUST		OPENING BALANCE			10.99
2000/09/21	PR		LOCKBOX	40.00		50.99
2000/09/21	PR		LOCKBOX		8.00-	42.99
2000/09/21	PR		LOCKBOX		4.00-	38.99
2000/10/02	SP		Store Sale - 000031931		27.05-	11.94
2000/10/16	SP		Store Sale - 000033119		1.94-	10.00
2001/03/13	TRUST		CLOSING BALANCE			10.00

6 mo. Statement

0000167

PA

000168

TERRY J. DENNIS 62144

3/13/01  
12:10:16

TRAN DATE DAILY BALANCE DAILY DEPOSITS NUMBER OF DEPOSITS

2000/09/14	10.99	10.99	0
2000/09/15	10.99	10.99	0
2000/09/16	10.99	10.99	0
2000/09/17	10.99	10.99	0
2000/09/18	10.99	10.99	0
2000/09/19	10.99	10.99	0
10/09/20	10.99	10.99	0
2000/09/21	38.99	40.00	1
2000/09/22	38.99	38.99	0
2000/09/23	38.99	38.99	0
2000/09/24	38.99	38.99	0
2000/09/25	38.99	38.99	0
2000/09/26	38.99	38.99	0
2000/09/27	38.99	38.99	0
2000/09/28	38.99	38.99	0
2000/09/29	38.99	38.99	0
2000/09/30	38.99	38.99	0
2000/10/01	38.99	38.99	0
2000/10/02	11.94	11.94	0
2000/10/03	11.94	11.94	0
2000/10/04	11.94	11.94	0
2000/10/05	11.94	11.94	0
2000/10/06	11.94	11.94	0
07/10/07	11.94	11.94	0
2000/10/08	11.94	11.94	0
2000/10/09	11.94	11.94	0
2000/10/10	11.94	11.94	0
2000/10/11	11.94	11.94	0
2000/10/12	11.94	11.94	0
2000/10/13	11.94	11.94	0
2000/10/14	11.94	11.94	0
2000/10/15	11.94	11.94	0
2000/10/16	10.00	10.00	0
2000/10/17	10.00	10.00	0
2000/10/18	10.00	10.00	0
2000/10/19	10.00	10.00	0

3/13/01  
12:10:16

NEVADA DEPARTMENT OF PRISONS  
INMATE FINANCIAL CERTIFICATE  
2000/09/14 THRU 2001/03/13

TERRY J. DENNIS 62144

000169

TRAN DATE	DAILY BALANCE	DAILY DEPOSITS	NUMBER OF DEPOSITS
2000/10/20	10.00	.00	0
2000/10/21	10.00	.00	0
2000/10/22	10.00	.00	0
2000/10/23	10.00	.00	0
2000/10/24	10.00	.00	0
2000/10/25	10.00	.00	0
2000/10/26	10.00	.00	0
2000/10/27	10.00	.00	0
2000/10/28	10.00	.00	0
2000/10/29	10.00	.00	0
2000/10/30	10.00	.00	0
2000/10/31	10.00	.00	0
2000/11/01	10.00	.00	0
2000/11/02	10.00	.00	0
2000/11/03	10.00	.00	0
2000/11/04	10.00	.00	0
2000/11/05	10.00	.00	0
2000/11/06	10.00	.00	0
2000/11/07	10.00	.00	0
2000/11/08	10.00	.00	0
2000/11/09	10.00	.00	0
2000/11/10	10.00	.00	0
2000/11/11	10.00	.00	0
2000/11/12	10.00	.00	0
2000/11/13	10.00	.00	0
2000/11/14	10.00	.00	0
2000/11/15	10.00	.00	0
2000/11/16	10.00	.00	0
2000/11/17	10.00	.00	0
2000/11/18	10.00	.00	0
2000/11/19	10.00	.00	0
2000/11/20	10.00	.00	0
2000/11/21	10.00	.00	0
2000/11/22	10.00	.00	0
2000/11/23	10.00	.00	0
2000/11/24	10.00	.00	0

TRAN DATE DAILY BALANCE DAILY DEPOSITS NUMBER OF DEPOSITS

2000/11/25	10.00	.00	0
2000/11/26	10.00	.00	0
2000/11/27	10.00	.00	0
2000/11/28	10.00	.00	0
2000/11/29	10.00	.00	0
2000/11/30	10.00	.00	0
2000/12/01	10.00	.00	0
2000/12/02	10.00	.00	0
2000/12/03	10.00	.00	0
2000/12/04	10.00	.00	0
2000/12/05	10.00	.00	0
2000/12/06	10.00	.00	0
2000/12/07	10.00	.00	0
2000/12/08	10.00	5.00	1
2000/12/09	10.00	.00	0
2000/12/10	10.00	.00	0
2000/12/11	10.00	.00	0
2000/12/12	10.00	.00	0
2000/12/13	10.00	.00	0
2000/12/14	10.00	.00	0
2000/12/15	10.00	.00	0
2000/12/16	10.00	.00	0
2000/12/17	10.00	.00	0
2000/12/18	10.00	.00	0
2000/12/19	10.00	.00	0
2000/12/20	10.00	.00	0
2000/12/21	10.00	.00	0
2000/12/22	10.00	.00	0
2000/12/23	10.00	.00	0
2000/12/24	10.00	.00	0
2000/12/25	10.00	.00	0
2000/12/26	10.00	.00	0
2000/12/27	10.00	.00	0
2000/12/28	10.00	.00	0
2000/12/29	10.00	.00	0
2000/12/30	10.00	.00	0

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TRAN DATE DAILY BALANCE DAILY DEPOSITS NUMBER OF DEPOSITS

2000/12/31	10.00	10.00	0
2001/01/01	10.00	10.00	0
2001/01/02	10.00	10.00	0
2001/01/03	10.00	10.00	0
2001/01/04	10.00	10.00	0
2001/01/05	10.00	10.00	0
11/01/06	10.00	10.00	0
2001/01/07	10.00	10.00	0
2001/01/08	10.00	10.00	0
2001/01/09	10.00	10.00	0
2001/01/10	10.00	10.00	0
2001/01/11	10.00	10.00	0
2001/01/12	10.00	10.00	0
2001/01/13	10.00	10.00	0
2001/01/14	10.00	10.00	0
2001/01/15	10.00	10.00	0
2001/01/16	10.00	10.00	0
2001/01/17	10.00	10.00	0
2001/01/18	10.00	10.00	0
2001/01/19	10.00	10.00	0
2001/01/20	10.00	10.00	0
2001/01/21	10.00	10.00	0
2001/01/22	10.00	10.00	0
1/01/23	10.00	10.00	0
2001/01/24	10.00	10.00	0
2001/01/25	10.00	10.00	0
2001/01/26	10.00	10.00	0
2001/01/27	10.00	10.00	0
2001/01/28	10.00	10.00	0
2001/01/29	10.00	10.00	0
2001/01/30	10.00	10.00	0
2001/01/31	10.00	10.00	0
2001/02/01	10.00	10.00	0
2001/02/02	10.00	10.00	0
2001/02/03	10.00	10.00	0
2001/02/04	10.00	10.00	0

3/13/01  
12:10:16

NEVADA DEPARTMENT OF PRISONS  
INMATE FINANCIAL CERTIFICATE  
2000/09/14 THRU 2001/03/13

TERRY J. DENNIS 62144

TRAN DATE	DAILY BALANCE	DAILY DEPOSITS	NUMBER OF DEPOSITS
2001/02/05	10.00	.00	0
2001/02/06	10.00	.00	0
2001/02/07	10.00	.00	0
2001/02/08	10.00	.00	0
2001/02/09	10.00	.00	0
2001/02/10	10.00	.00	0
2001/02/11	10.00	.00	0
2001/02/12	10.00	.00	0
2001/02/13	10.00	.00	0
2001/02/14	10.00	.00	0
2001/02/15	10.00	.00	0
2001/02/16	10.00	.00	0
2001/02/17	10.00	.00	0
2001/02/18	10.00	.00	0
2001/02/19	10.00	.00	0
2001/02/20	10.00	.00	0
2001/02/21	10.00	.00	0
2001/02/22	10.00	.00	0
2001/02/23	10.00	.00	0
2001/02/24	10.00	.00	0
2001/02/25	10.00	.00	0
2001/02/26	10.00	.00	0
2001/02/27	10.00	.00	0
2001/02/28	10.00	.00	0
2001/03/01	10.00	.00	0
2001/03/02	10.00	.00	0
2001/03/03	10.00	.00	0
2001/03/04	10.00	.00	0
2001/03/05	10.00	.00	0
2001/03/06	10.00	.00	0
2001/03/07	10.00	.00	0
2001/03/08	10.00	.00	0
2001/03/09	10.00	.00	0
2001/03/10	10.00	.00	0
2001/03/11	10.00	.00	0
2001/03/12	10.00	.00	0

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NEVADA DEPARTMENT OF PRISONS  
INMATE FINANCIAL CERTIFICATE  
2000/09/14 THRU 2001/03/13

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TERRY J. DENNIS

62144

TRAN DATE	DAILY BALANCE	DAILY DEPOSITS	NUMBER OF DEPOSITS
2001/03/13	10.00	.00	0

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12:10:16

NEVADA DEPARTMENT OF PRISONS  
INMATE FINANCIAL CERTIFICATE  
2000/09/14 THRU 2001/03/13

PAGE 7  
IB6660

TERRY J. DENNIS 62144

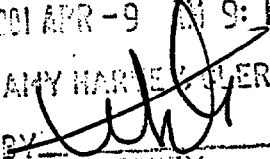
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START DATE	END DATE	TOTAL DAILY BALANCES	NUMBER OF DAYS	AVERAGE MONTHLY BALANCE
2000/09/14	2000/10/13	649.10	29	22.38
2000/10/14	2000/11/13	313.88	31	10.13
2000/11/14	2000/12/13	300.00	30	10.00
2000/12/14	2001/01/13	310.00	31	10.00
2001/01/14	2001/02/13	310.00	31	10.00
2001/02/14	2001/03/13	280.00	28	10.00
START DATE	END DATE	TOTAL DEPOSITS	NUMBER OF DEPOSITS	AVERAGE MONTHLY DEPOSITS
2000/09/15	2000/10/13	40.00	1	40.00
2000/11/14	2000/12/13	5.00	1	5.00
CURRENT ACCOUNT BALANCE 2001/03/13			10.00	
AVERAGE MONTHLY BALANCE			12.09	
AVERAGE MONTHLY DEPOSITS			7.50	
RAISE TOTAL MONTHLY DEPOSIT			7.50	



ORIGINAL

1 TERRY DENNIS  
2 PRISON NO. 62144  
3 Nevada State Prison  
Post Office Box 607  
Carson City, Nevada 89702

FILED  
2001 APR -9 AM 9:10  
AMY HARTLEY CLERK  
BY  DEPUTY

4 DISTRICT COURT  
5 WASHOE COUNTY, NEVADA

6 TERRY DENNIS,  
7 Petitioner,

Case No.: CR99-0611  
Dept No.: One

8 v.

REQUEST FOR STAY  
OF EXECUTION

9 DON HELLING, Warden at the Nevada  
State Prison and FRANKIE SUE DEL  
10 PAPA, Attorney General of the State of  
Nevada,

EXECUTION TO BE SCHEDULED  
ON APRIL 11, 2001

11 Respondents.  
12


13 Petitioner, Terry Dennis, hereby requests imposition of a stay of execution of his death  
14 sentence, which is currently scheduled to be set by the court on April 11, 2001.

15 Petitioner has submitted a petition for writ of habeas corpus for post-conviction relief,  
16 pursuant to Nev. Rev. Stat. § 34.720 et seq. This is a capital case, and the petition on file "is the  
17 first one challenging the validity of the petitioner's conviction or sentence." Nev. Rev. Stat. §  
18 34.820(1). The statute provides that, under these circumstances, "the court shall: (a) Appoint  
19 counsel to represent the petitioner; and (b) Stay execution of the judgment pending disposition of  
20 the petition and the appeal." Nev. Rev. Stat. § 34.820(1). Imposition of a stay of execution is  
21 therefore mandatory.

22 Accordingly, petitioner requests that this court issue an order staying execution of the  
23 judgment of death.

24 Dated this 5th day of April, 2001.

25 Respectfully submitted,

26   
27 TERRY DENNIS  
28 Petitioner

000176

**CERTIFICATE OF SERVICE VIA FEDERAL EXPRESS**

I hereby certify that on the 4<sup>th</sup> day of April, 2001, I served a true and correct copy of the **REQUEST FOR STAY OF EXECUTION** on the following parties by delivering an envelope containing a copy of the foregoing by Federal Express, addressed as follows:

Attorney General  
State of Nevada, Criminal Justice Division  
Capitol Complex  
100 North Carson Street  
Carson City, Nevada 89710-4717

District Attorney, Washoe County  
Criminal Justice Division  
75 Court Street  
P.O. Box 30083  
Reno, Nevada 89520-3083

  
An Employee of the Federal Public Defender

000177

IBG100  
IBRCTL1

evada Department of Prisons  
Inmate Account Inquiry

3/13/2001  
11:10:44

Account/Inmate: 62144 Last: DENNIS

First: TERRY

J

Institution: ESP

Effective Date: 8/18/1999 Unit: 3 Cell: 40  
Wing: A Bed: A

Type options, press Enter.  
5=Display 7=Freeze

SEL	Fund	Description	Fund Balance	Frozen Y/N	Typ
[ ]	TRUST	TRUST FUND	10.00	N	T
[ ]	TRUS2	SECOND TRUST FUND	5.00	N	T
[ ]	DEPT	DEPARTMENT CHARGES FUND	6.00-	N	D
[ ]	SAVE	SAVINGS FUND	125.88	N	S

F1=Help

F3=Exit

F12=Previous

Roll Up/Down

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AMY HANCOCK CLERK

BY [Signature] DEPUTY

TERRY DENNIS  
In Propria Persona  
Inmate No. 62144  
Nevada State Prison  
P.O. Box 607  
Carson City, Nevada 89702

DISTRICT COURT

WASHOE COUNTY, NEVADA

TERRY DENNIS,

Petitioner,

v.

DON HELLING, Warden at the Nevada  
State Prison, and FRANKIE SUE DEL  
PAPA, Attorney General of the  
State of Nevada,

Respondents.

Case No.: CR99-0611

Dept No.: One

**PROPER PERSON REQUEST FOR  
APPOINTMENT OF  
POST-CONVICTION COUNSEL  
(Death Penalty Case)**

Petitioner, Terry Dennis, in proper person, hereby requests appointment of effective counsel to assist him in state post-conviction proceedings. This motion is made and based upon Nev. Rev. Stat. § 34.820(1)(a), the attached Memorandum of Points and Authorities, the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, and the entire record on file herein.

Dated this 5th day of April, 2001.

Respectfully submitted,

Terry J. Dennis

TERRY DENNIS  
In Propria Persona  
Inmate No. 62144  
Nevada State Prison  
P.O. Box 607  
Carson City, Nevada 89702

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1                                    MEMORANDUM OF POINTS AND AUTHORITIES

2        1.        I have been an inmate on Nevada's Death Row since July, 1988. I needed and obtained  
3 assistance in the preparation of these documents.

4        2.        I am presently without counsel to litigate my constitutional claims in state court. As a  
5 layman, I am not competent to represent myself. I am presently under a sentence of death, and I  
6 have filed a petition for writ of habeas corpus attacking my judgment of conviction and sentence,  
7 and a request to proceed in forma pauperis, demonstrating that I am indigent. Nev. Rev. Stat. §  
8 34.750(1). Appointment of counsel to provide representation for me in these proceedings is  
9 mandatory. Nev. Rev. Stat. § 34.820(1)(a).

10       3.        I am entitled under Nev. Rev. Stat. § 34.820(1)(a) to the effective assistance of counsel in  
11 state habeas proceedings. Crump v. Warden, 113 Nev. 293, 934 P.2d 247, 253 (1997). I therefore  
12 request that this court appoint me counsel who will ensure that all available claims are discovered  
13 and litigated effectively on my behalf in the Nevada State Court system. I do not consent to waiving  
14 any of the claims raised in the propria persona petition now on file or any other available  
15 constitutional claim. The omission of any of these claims, or any other available claims, in any state  
16 petition for writ of habeas corpus filed by appointed counsel should be expressly deemed to be  
17 without my consent and against my will. See, e.g., Racquepaw v. State, 108 Nev. 1020 (1992);  
18 Stewart v. Warden, 92 Nev. 588 (1976). My authorization allowing appointed counsel to represent  
19 me, and to bind me by his or her actions as my agent, is conditional upon counsel performing  
20 effectively as my counsel; discovering, investigating and litigating all available claims on my behalf;  
21 and maintaining undivided loyalty to my interests, regardless of counsel's personal, social or political  
22 interests that may be affected by the vigorous discovery and litigation on counsel's prospects of  
23 compensation, appointment in other cases, or treatment in other cases by the presiding judge in this  
24 matter, or by any other judicial officials. Any action by counsel which is inconsistent with effective  
25 performance of these duties is outside the scope of my authorization to counsel to act as my agent,  
26 and the state is hereby placed on notice not to rely upon counsel's authorization to act as my agent  
27 if counsel performs any act inconsistent with these duties without my express and informed consent.  
28 See Deutscher v. Angelone, 16 F.3d 981 (9<sup>th</sup> Cir. 1994).

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1 4. The constitutional claims already identified in my case, which I direct appointed counsel to  
2 raise on my behalf, include, but are not limited to, the following:

3 a. All issues raised on my behalf on direct appeal, because I was prevented from  
4 prevailing on them due to erroneous court rulings. Lozada v. State, 110 Nev. 349,  
5 871 P.2d 944 (1994) (erroneous court rulings constitute impediment external to the  
6 defense which justifies re-litigation of same issues in subsequent court proceedings).


7 b. Claims of ineffective pre-trial, trial and appellate counsel.

8 c. Any and all cognizable issues not raised on direct review but which become known  
9 to effective post-conviction counsel after both comprehensive investigation of the  
10 facts surrounding my case and a thorough and exhaustive search of the record.

11 5. I further condition my authorization for appointed counsel to represent me upon  
12 counsel performing effectively in seeking an evidentiary hearing on each of the above issues, see  
13 Nev. Rev. Stat. §§ 34.770, 34.780(2), 34.790, to provide the requisite factual basis for the  
14 development and review of the above claims. I further direct my counsel to seek court authorization  
15 to expend any and all funds necessary to fully and fairly develop and present my claims, including  
16 whatever funds are necessary for expert, investigative, and other ancillary services, see N.R.S. 7.135,  
17 and to conduct all discovery proceedings, see Nev. Rev. Stat. § 34.780, necessary to the  
18 identification and development of all available claims.

19 Dated this 5th day of April, 2001.

20 Respectfully submitted,

21  
22   
23 TERRY DENNIS  
24 In Propria Persona  
25 Inmate No.: 62144  
26 Nevada State Prison  
27 P.O. Box 607  
28 Carson City, Nevada 89702

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2001 APR 12 AM 10:27

AMY HARMON CLERK

BY [Signature] DEPUTY

1 CODE 4292  
Richard A. Gammick  
2 #001510  
P.O. Box 30083  
3 Reno, NV 89502-3083  
(775) 328-3200  
4 Attorney for Plaintiff

5  
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
7 IN AND FOR THE COUNTY OF WASHOE.

8 \* \* \*

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR99-0611

12 TERRY JESS DENNIS,

Dept. No. 1

13 Defendant.  
14 \_\_\_\_\_/

15 WARRANT OF EXECUTION

16 A JUDGMENT OF DEATH was entered on the 20th day of  
17 July, 1999, against the above-named defendant, TERRY JESS DENNIS,  
18 as a result of his plea of guilty to Count I, FIRST DEGREE MURDER  
19 WITH THE USE OF A DEADLY WEAPON.

20 A panel of three judges, with the Honorable JANET  
21 BERRY, MICHAEL CHERRY and MICHAEL MEMEO, presiding, after the  
22 defendant's plea of guilty to the crime of Count I, MURDER OF THE  
23 FIRST DEGREE WITH THE USE OF A FIREARM, in violation of NRS  
24 200.010 and 200.030, conducted a penalty hearing beginning on  
25 July 19, 1999. The same impaneled district judges then  
26 proceeded to hear evidence and deliberated on the punishment to

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1 be imposed as provided by NRS 175.552 and 175.554. Thereafter,  
2 the same panel returned with the sentence that the defendant  
3 should be punished by Death, and found beyond a reasonable doubt  
4 that there were aggravating circumstances connected with the  
5 commission of said crime, as follows:

6 1. The defendant has been previously convicted of a  
7 felony offense involving the use or threat of violence to the  
8 person of another, to wit, in 1979 the defendant was convicted of  
9 felony Assault in the Second Degree in Snohomish County Superior  
10 Court, Washington.

11 2. The defendant has been previously convicted of a  
12 felony offense involving the use or threat of violence to the  
13 person of another, to wit, in 1984 the defendant was convicted of  
14 felony Assault in the Second Degree in Snohomish County Superior  
15 Court, Washington.

16 3. The defendant has been previously convicted of a  
17 felony offense involving the use or threat of violence to the  
18 person or another, to wit, in 1984 the defendant was convicted of  
19 felony Second Degree Arson in Snohomish County Superior Court,  
20 Washington.

21 That on or about the 20th day of July, 1999, the jury  
22 unanimously found, beyond a reasonable doubt, that there were two  
23 mitigating circumstances sufficient to outweigh the aggravating  
24 circumstance or circumstances, said verdict having been returned  
25 in the County of Washoe, State of Nevada. The court at this

26 ///

1 time, having determined that no legal reason exists against the  
2 execution of the Judgment.

3 IT IS HEREBY ORDERED that the County Clerk of the  
4 County of Washoe, State of Nevada, shall forthwith, execute, in  
5 triplicate, under the Seal of the Court, certified copies of the  
6 Warrant of Execution, the Judgment of Conviction, and of the  
7 entry thereof in the Minutes of the Court. The original of the  
8 triplicate copies of the Judgment of Conviction, Warrant of  
9 Execution, and entry thereof in the Minutes of the Court, shall  
10 be filed in the Office of the County Clerk, and two of the  
11 triplicate copies shall be immediately delivered by the Clerk to  
12 the Sheriff of Washoe County, State of Nevada.

13 IT IS FURTHER ORDERED that one of the triplicate copies  
14 be delivered by the Sheriff to the Director of the Department of  
15 Prisons or to such person as the Director shall designate. The  
16 Sheriff is hereby directed to take charge of the said defendant,  
17 TERRY JESS DENNIS , and transport and deliver the prisoner,  
18 forthwith, to the Director of the Department of Prisons at the  
19 Nevada State Prison located at or near Carson City, State of  
20 Nevada, and said prisoner, TERRY JESS DENNIS, is to be  
21 surrendered to the custody of the said Director of the Department  
22 of Prisons or to such authorized person so designated by the  
23 Director of the Department of Prison, for the imprisonment and  
24 execution of the said defendant, TERRY JESS DENNIS, in accordance  
25 with the provisions of this Warrant of Execution.

26 ///

1 IT IS FURTHER ORDERED that in connection with the above  
2 facts and pursuant to the provisions of NRS 176.345 and 176.355,  
3 the Director of the Department of Prisons, or such persons as  
4 shall by him be designated, shall carry out said Judgment and  
5 Sentence by executing the said TERRY JESS DENNIS by injection of  
6 a lethal drug, within the limits of the State Prison located at  
7 or near Carson City, State of Nevada, during the week commencing  
8 on Monday, the 30<sup>th</sup> day of April, 2001, in the  
9 presence of the Director of the Department of Prisons, not less  
10 than six nor more than nine reputable citizens over the age of  
11 twenty-one years, to be selected by the said Director of the  
12 Department of Prisons, and a competent physician, but no other  
13 persons shall be present at said execution.

14 Dated this 11<sup>th</sup> day of April, 2001.

15  
16 Janet J. Berry  
17 DISTRICT JUDGE  
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FILED

AMY HARVEY, Clerk

By Alona Queen  
4/12/01 Deputy Clerk

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

TERRY DENNIS,

Case No. CR99-0611

Petitioner,

Dept. No. 1

vs.

DON HELLING, Warden at the NEVADA  
STATE PRISON and FRANKIE SUE DEL  
PAPA, Attorney General of the State of  
Nevada,

Respondent.

ORDER

Petitioner, TERRY DENNIS, filed a *Petition for Writ of Habeas Corpus (Post-Conviction)* on April 9, 2001. The Court has reviewed the Petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his liberty.

Accordingly, IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this order, answer or otherwise respond to the Petition and file a *Return* in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

Dated this 12<sup>th</sup> day of April, 2001.

Janet Berry  
DISTRICT JUDGE

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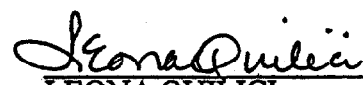
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CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on April 12, 2001, I deposited for mailing a copy of the attached document addressed to:

Dan Greco, Esq.  
Deputy District Attorney  
PO Box 30083  
Reno, NV 89520

Maizie Pusich, Esq.  
Deputy Public Defender  
PO Box 30083  
Reno, NV 89520

  
LEONA QUILICI